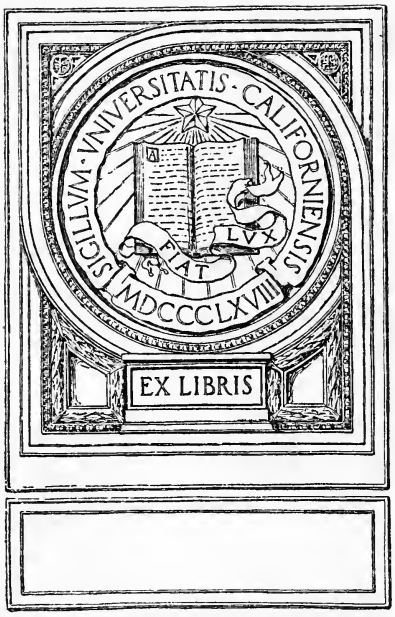
SOCIAL LAWS OF PENNSYLVANIA

WARD BONSALL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HAND BOOK

OF

SOCIAL LAWS OF PENNSYLVANIA

COMPILED AND EDITED BY

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PREFACE

The idea out of which this book grew was conceived by the workers of The Associated Charities of Pittsburgh, who have long felt that more accurate, comprehensive information regarding the laws of our Commonwealth would strengthen their service to their clients.

To determine those statutes which have application to the social relationships and conditions of families and persons which social workers are called upon to serve, and to present, as briefly and untechnically as possible, the provisions of these acts and the process of enforcement are the tasks which have been undertaken by the author. Manifestly a complete compendium of such legislation could not be attempted within the limits prescribed by the object of providing a legal guide for the use of the lay field worker. It is believed, however, that all the laws which are commonly used by social workers, as well as many acts which probably never have been used, but which could be used to advantage, have been covered in this compilation. It is scarcely necessary to state that the book was not designed as a substitute for the services of an attorney. We believe it will be sufficiently clear to those who use the book that the only wise course for the layman in almost every instance is to seek competent legal counsel.

The manual should prove valuable to members of the legal profession whose practice includes the handling of cases falling within the range of subjects considered. The references to statutes and to cases have been made exact and in accordance with the usual method of citation in the legal profession, and the treatment of each subject included is practically a brief of the general law which applies.

The production of Social Laws of Pennsylvania has been a cooperative enterprise. Not only has the cost of compilation been met by contributions from The Associated Charities of Allentown, The Associated Charities of Harrisburg, The Society for Organizing Charity of Philadelphia, The Associated Charities of Pittsburgh and The United Charities of Wilkes-Barre, and the expense of publication been borne equally by The Associated Charities of Pittsburgh and the Philadelphia Society for Organizing Charity, but these agencies have had opportunity to submit to Mr. Bonsall statements of the cases under their care in which legal problems were involved. Thus the social workers themselves have been enabled, as it were, to aid materially in the preparation of the book by indicating to some extent the range and nature of the knowledge they need respecting the legal aspects of their work.

But for the hearty backing and substantial financial support of the Philadelphia Society for Organizing Charity and the availability and abundant legal and social qualifications for the task of Ward Bonsall, Esq., it would hardly have been possible to offer to the social workers of Pennsylvania and to others interested in their work this book, which we trust will contribute in some small degree to better equipment for service.

J. BYRON DEACON,
General Secretary,
The Associated Charities of Pittsburgh.

NOVEMBER, 1914.

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EXPLANATION OF REFERENCES

Acts of Assembly are referred to in the usual manner among lawyers by giving the date of approval of the Act and the page of the pamphlet laws where the act is to be found, as, the Act of April 13, 1867, P. L. 78. Following this, there is given in parenthesis the location of the act in the second edition of Pepper and Lewis's Digest of Statutes, which covers practically all acts referred to down to and including those of 1907. For the above act such reference is (Desertion 15 to 18). This means that under the title "Desertion" in that work the Act of 1867 will be found printed in full in the paragraphs numbered 15 to 18. For statutes passed since 1907 no such reference is possible, because the digest covering those years is not yet published. Practically all acts of Assembly mentioned in this book can be found in full in the four volumes of Pepper and Lewis's Digest of Statutes, second edition, and in the three official volumes of pamphlet laws of 1909, 1911 and 1913.

Where decided cases are referred to, the citations are in the usual lawyers' method of giving in order the number of the volume, the name of the report and the page of the volume. Among the reports, those most frequently mentioned are the following:

Pa.—Pennsylvania Supreme Court.
W. N. C.—Weekly Notes of Cases.
Fed. Rep.—Federal Reporter.
Phila.—Philadelphia Reports.
Pitts. L. J. or P. L. J.—Pittsburgh Legal Journal.
Pa. Super. Ct. or Super. Ct.—Pennsylvania Superior Court
D. R.—District Reports.
Pa. C. C.—Pennsylvania County Court Reports.

Social Laws of Pennsylvania

CHAPTER I.

CHILDREN.

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1. PROTECTION OF CHILDREN.

ACT OF 1879.

The general child protection law of Pennsylvania is the act of June 11, 1879, P. L. 142 (Juveniles 2 et seq.). The principal provisions of that act are as follows:

Section 1. Any person who shall "cruelly ill-treat, abuse or inflict unnecessary cruel punishment upon any infant or minor child, and any person having the care, custody or control of any minor child, who shall wilfully abandon or neglect the same" shall be guilty of a misdemeanor. Conviction may be before any justice of the peace, magistrate or court of record. Penalty, not less than $10 nor more than $50 for each offense.

Under this, a mother who goes to a distant city, leaving her child, four years old, at the house of its grandfather who is not in position to care for it, is guilty. Com. v. Chatham, 26 Pa. C. C. 31.

Section 2. Any person in control of a child under fifteen years of age, who shall dispose of it, or any person receiving or employing it, "for the vocation or occupation of rope or wire walking, or as an acrobat, gymnast, contortionist or rider," and any person having the care, custody or control of any minor child whatsoever, who shall dispose of it, or any person receiving or employing it, "for any obscene, indecent, or illegal exhibition or vocation, or any vocation injurious to the health or dangerous to the life or limb of such child engaged therein, or for the purpose of prostitution," and any person "who shall retain, harbor or employ any minor child in or about any assignation house or brothel, or in any place where any obscene, indecent or illegal exhibition takes place" shall be guilty of a misdemeanor. Conviction may be before any justice of the peace, magistrate or court of record. Penalty, not less than $50, nor more than $100 for each offense.

Section 3. Hiring minors under eighteen years of age for the purpose of "singing, playing on musical instruments, begging, or for any

mendicant business whatsoever, in the streeets, roads or other highways" shall be guilty of a misdemeanor. Conviction may be had as in Section 1 of the act. Penalty, not less than $50 nor more than $100.

Section 4. Any person having the care, custody or control of any child under fifteen who permits it "to sing, dance, act or in any manner exhibit in any dance house whatsoever, or in any concert saloon, theatre or place of entertainment, where wines or spirituous or malt liquors are sold or given away, or with which any place for the sale of wines or spirituous or malt liquors is directly or indirectly connected by any passage way or entrance" and any proprietor of any such place so employing any such child, shall be guilty of a misdemeanor. Conviction may be had as in Section 1. Penalty, not less than $50, nor more than $100 for each offense.

Section 5. Any person employing any child under twelve "in any underground works or mine, or like place whatsoever" shall be guilty of a misdemeanor. Conviction may be had as in Section 1. Penalty, not less than $10 nor more than $50.

Section 6. Upon the oath or affirmation of "any person" that he "believes that this act has been or is being violated in any place or house," the justice or magistrate "shall forthwith issue a warrant to a constable or other authorized officer, to enter such place or house and investigate the same, and such person may arrest or cause to be arrested all offenders, and bring them before any justice, magistrate or court of record for a hearing of the case; and it shall be the duty of all constables and policemen to aid in bringing all such offenders before said authorities for a hearing."

Section 7. When any person in control of a child is convicted under this act, "it shall be lawful for any person to apply to the orphans' court of the county" for the appointment of a guardian of the person of the child. The court may then, in its discretion, make such appointment, having due regard to religious persuasion, or it may place such child in a home for children, with the powers of a guardian of the person: Provided, however, "That the children of Roman Catholic parents shall be placed in asylums under the control and care of that denomination." The court may order the parent to pay such a reasonable sum for the child's maintenance, and at such times and in such amounts as it may see fit; and it may, at any subsequent time, upon being satisfied that the parent has again become fit to resume custody, remand it to the custody of its parent.

Under this an inadvertent appointment of a guardian of different religious faith will be vacated. Park's Estate (1898), 7 D. R. 700.

Section 8. "Any duly organized or incorporated humane society, having for one of its objects the protection of children from cruelty, may offer any agents or officers employed by them to the mayor of any city * * * for the purpose of being commissioned to act as police officers through the limits of said city, for the purpose of arresting all the offenders against this act," and the mayor shall, "if such persons are proper and discreet persons, commission them to act as such police officers, with all the rights and powers appertaining thereto." The city shall not be liable for salary or expenses except for the detention of prisoners.

In the same way similarly qualified persons may be appointed as constables in any district or township by the court of common pleas of the county; and the keepers of jails or lock-ups, or station houses, are required to receive all persons arrested by such policemen or constables.

Section 9 empowered magistrates and justices of the peace to commit delinquent and dependent children to societies for the protection of children. This part of the act has been repealed by later legislation, and the magistrates and justices of the peace can now do nothing but hold the child for the Juvenile Court. See cases in 18 D. R. 19 and 22 D. R. 347.

Section 10. When any minor child has been deserted by its parents and it has no legal guardian, it may be adopted by any person by order of the court of common pleas "in the manner now provided by law in the case of the death of the parents."

Section 11. If the fine imposed and the costs are not paid, the justice of the peace, magistrate or court of record "shall commit said offender to the county prison, there to remain for not less than twenty nor more than ninety days, or until discharged by due process of law."

When the fine is more than $10, the defendant may appeal from the decision of the justice of the peace or magistrate to the court of quarter sessions upon entering bail, when the prosecution shall there proceed as in other cases of misdemeanor.

If, in lieu of deciding the case, the justice of the peace or magistrate binds the defendant over or commits him to appear in quarter sessions court, or if he appeals as herein provided, and he is there convicted, he may be fined by that court not more than $200, or imprisoned not more than one year, or both, at the discretion of the court.

Section 12. When the parents or guardian of any child unable to support itself have been convicted under this act, or are dead, or cannot be found, and there is no other person in the county legally responsible for the support of such child and willing to assume its support, the magistrate or court may commit it to the custody of the guardians of the poor; but this shall not exempt any person from any legal duty to support

PUBLIC PERFORMING.

The Act of May 16, 1901, P. L. 220 (Juveniles 15), provides that any person, association, agency or corporation that shall employ or use any child under eighteen, or shall endeavor to secure by advertisement or otherwise any such child for the purpose "of taking part in any theatrical performance, or athletic exhibition, or of singing, or of playing upon musical instruments, without the consent of the parents or legally appointed guardians" shall be guilty of a misdemeanor. Conviction may be had before a justice of the peace, magistrate or court of record. Penalty, not less than $50, nor more than $100, and upon a second conviction imprisonment for not less than one year and not more than three years.

PROSTITUTION.

Section one of the Act of May 28, 1885, P. L. 27 (Juveniles 14), provides that "any person who takes a female child under the age of

sixteen years for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian, or other person having legal custody of her person, for the purpose of marriage, or who inveigles or entices any such minor female child into a house of ill-fame or of assignation, or elsewhere, for the purpose of prostitution or sexual intercourse, shall, in every such case, be guilty of a misdemeanor." Penalty, imprisonment at separate or solitary confinement at labor for not more than five years, or fine not exceeding $1,000, or both.

This act is not repealed by the law of May 19, 1887, P. L. 128 (Crimes 289), relating to statutory rape. The act of 1885 punishes the enticing to a place, irrespective of the act of sexual intercourse, while the act of 1887 punishes him who carnally knows her, whether there was any taking or enticing or not. Com. v. Fowler (1887), 18 Phila. 516.

The unchaste reputation of the female child is no defense under this act. Id.

A woman who takes or entices may be convicted, but there must be some act of enticing actually done, or words spoken, not merely permitted. Id.

This act is constitutional and actual sexual intercourse not necessary in order to complete the crime, but only the purpose to have it. Com. v. Kaniper (1887), 3 Pa. C. C. 276.

See 4 P. & L. Dig. Dec. 5676 et seq.

Section two of the Act of May 29, 1907, P. L. 317 (Juveniles 39b), provides that a parent or other person charged with the care of a child under sixteen, who permits such child to be or remain in any reputed house of prostitution, or in any place where opium is smoked, is guilty of a misdemeanor, punishable by fine of $1,000 and two years' imprisonment.

The Act of March 24, 1909, P. L. 59, provides that any person, firm, company or corporation, having authority over a minor, who knowingly sends such minor to any house of prostitution or other immoral place of resort or amusement, is guilty of a misdemeanor, punishable by fine of $1,000 and one year's imprisonment.

The Act of May 1, 1909, P. L. 306, provides that any person who entices or attempts to entice into the commonwealth any woman or girl, for the purpose of prostitution, or for any other immoral purpose, is guilty of a misdemeanor, punishable by imprisonment of not less than one or more than five years and fine of not exceeding $5,000.

For other statutes, see "Pandering," under "Crimes."

ABANDONMENT OF CHILDREN.

Section one of the Act of May 29, 1907, P. L. 318 (Juveniles 39a), provides that a parent or other person charged with the care and custody, for nurture or education, of a child under sixteen, who abandons the child in destitute circumstances, and wilfully omits to furnish necessary and proper food, clothing or shelter for such child, is guilty of a misdemeanor, punishable by fine of $1,000 and two years' imprisonment. Any fine may be applied, in the discretion of the court, to the support of the child.

For other statutes, see "Cruelty to Infants" under "Crimes."

BOARDING OF INFANTS; LICENSE.

Sections two and three of the Act of May 28, 1885, P. L. 27 (Juveniles 16 and 17), provide as follows:

Section 2. Any person, other than an institution duly incorporated for the purpose, who engages in the business of receiving, boarding or keeping infants under three for hire or reward, who takes more than two such infants, without legal commitment or without a written license from the mayor of the town or justice of the peace or magistrate of the locality where the child is to be kept, shall be guilty of a misdemeanor. Penalty, fine of not more than $100.

Section 3. Such mayor, justice or magistrate may issue such license in his discretion, charging a fee of $1 therefor, for the use of the county. The license may be revoked for cause by the court. Any member or officer of the State Board of Charities, of the local board of health or of a society for the protection of children from cruelty may, at all reasonable times, enter and inspect the premises.

The Act of April 27, 1909, P. L. 211, makes it unlawful, in cities of the first class, for any person other than institutions duly incorporated for the purpose, to engage in the business of boarding infants under three, or to take more than two such infants, without a license from the Department of Public Health and Charities. The department may issue and revoke such licenses, and may prescribe rules and regulations for the conduct of the business and for the inspection of the premises. Such premises may be inspected at any time by the State Board of Charities, by health officers, or by any duly authorized officer of any incorporated society for the protection of children from cruelty.

Under the Act of June 9, 1911, P. L. 854, applying to cities of the third class, it is unlawful for any person in such cities, other than institutions duly incorporated for the purpose, to board more than two infant children under three, without an adult caretaker or without legal commitment, unless he has a license from the mayor of the city. Licenses may be granted upon such terms, and under such rules, regulations and penalties as shall be prescribed by general ordinance.

TRAFFIC IN INFANTS.

The Act of April 18, 1905, P. L. 213 (Juveniles 31), provides that any person who trades in humanity by trading, bartering, buying, selling, or dealing in infant children, is guilty of a misdemeanor, punishable by fine of $1,000 and five years' imprisonment.

LIQUOR.

Section 17 of the Brooks Liquor Law of May 13, 1887, P. L. 108 (Liquors 33), makes it unlawful for any person, with or without license, to furnish by sale, gift or otherwise any liquor at any time to a minor.

This law, however, applies to persons engaged in the liquor business, and it is not an offense under the law for one not so engaged to give liquor to a minor. Com. v. McGee, 7 Pa. C. C. 162.

The act is directed against *sales,* and any "giving" that is in reality a "sale" is forbidden, whether by a dealer or any other person. Com. v. Silverman, 138 Pa. 642, Altenburg v. Com. 24 W. N. C. 145.

Under the act it is not material whether the defendant had knowledge of the minority or not; he is guilty if he furnished liquor to a minor. Com. v. Steffner, 2 D. R. 152, Com. v. Baumler, 20 Pa. C. C. 273.

A minor can be convicted of selling to another minor. Com. v. Kirby, 12 Pa. C. C. 175.

The Act of May 25, 1897, P. L. 93 (Liquors 46), provides that in all prosecutions against licensed vendors for selling to minors, the defendant shall be permitted to give, by way of defence, the circumstances of the sale, and if it appear that the liquor was furnished knowingly or negligently, he is guilty of a misdemeanor, punishable by fine of $500 and imprisonment for ninety days in the county jail; provided, that the burden of proof is on the defendant to show that the liquor was not furnished either knowingly or negligently.

Section 4 of the Act of May 28, 1885, P. L. 27 (Juveniles 18), provides that any proprietor or person "in charge of any dance-house, concert saloon, theatre, museum, or similar place of amusement, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals, who admits or permits to remain therein any minor under the age of eighteen years, unless accompanied by his or her parent or guardian," is guilty of a misdemeanor, punishable by fine of $200.

Under the Act of May 10, 1881, P. L. 12 (Juveniles 63 and 23), as amended by the Act of May 20, 1913, P. L. 246, any minor under twenty-one who knowingly and falsely represents himself to be twenty-one years of age to any licensed dealer, for the purpose of procuring liquor, is guilty of a misdemeanor, punishable by fine of $50 and imprisonment in the county jail for sixty days.

Also any person who wilfully misrepresents a minor's age, for the purpose of inducing a dealer to furnish him liquor, is guilty of a misdemeanor, punishable by fine of $50 and imprisonment in jail for sixty days.

TOBACCO AND CIGARETTES.

Under the Act of July 10, 1901, P. L. 638 (Juveniles 27 to 30), all persons are forbidden to sell, give or furnish tobacco in any form to a child under sixteen; such an act is a misdemeanor, punishable by fine of $100 and imprisonment in the county jail for thirty days.

By the Act of May 9, 1913, P. L. 198, it is made punishable by a fine of not less than $100 nor more than $300 to "furnish to any minor, by gift, sale or otherwise, any cigarette or cigarette paper." Section 2 provides that if any minor is in possession of such articles and refuses to tell "any police officer, constable, juvenile court officer, truant officer, or teacher in any school," where and from whom he obtained it, such minor shall be guilty of a misdemeanor. If over sixteen he may be fined $5 or imprisoned five days, or both, by any alderman, magistrate or justice of the peace. If under sixteen, the case shall be certified to juvenile court

INJURIOUS SAMPLES.

By the Act of May 2, 1901, P. L. 111 (Juveniles 24 to 26), it is made a misdemeanor for any person "to distribute any free or trial samples of any medicines, dyeing, ink, coloring or polishing compounds, or any of them, in any form of preparation, upon the ground, sidewalks, porches, into yards, or into or under doors or windows, or in any way or manner that children may get possession of or secure the same." Conviction may be before any alderman or justice of the peace; penalty, $20 fine or twenty days in jail.

POOL ROOMS.

Under the Act of April 18, 1905, P. L. 212 (Billiard Rooms and Bowling Alleys 10 and 11), it is a misdemeanor for the licensed keeper, proprietor, owner or superintendent of any public pool rooms, billiard room, bowling saloon or ten-pin alley, knowingly to permit any person under eighteen to be present in such place; penalty, not less than $10 nor more than $100.

JUNK DEALERS.

Under the Act of May 5, 1899, P. L. 247 (Junk Dealers 4), it is a misdemeanor for any person to buy or receive from minors, knowing them to be such, any junk, rope, scrap, iron, brass, lead, copper, or other metal; penalty, fine of $500 and one year's imprisonment.

Under the Act of February 23, 1870, P. L. 214, relating to Philadelphia, and requiring itinerant traders in glass, rags, paper, scrap metals, old clothing and all other refuse matter to obtain a license from the court of quarter sessions, such trader must file a bond in the sum of $500, conditioned that he or she shall not purchase any of the things herein included from any minor or irresponsible party.

PAWNBROKERS.

Under the Act of June 7, 1911, P. L. 671, pawnbrokers are forbidden to loan to children under sixteen, under a penalty of not less than $5 nor more than $25, to be collected by process of summary conviction, and in default of payment are subject to five days' imprisonment in jail.

EXPLOSIVES.

The Act of June 10, 1881, P. L. 111 (Explosives 11), makes it a misdemeanor, punishable by fine of $300, knowingly and wilfully to "sell or cause to be sold, to any person under sixteen years of age, any cannon, revolver, pistol, or other such deadly weapon" or "any imitation or toy cannon, revolver or pistol so made, constructed or arranged as to be capable of being loaded with gunpowder or other explosive substance, cartridges, shot, slugs or balls, and being exploded, fired off and discharged, and thereby become a dangerous weapon," or knowingly and wilfully to sell such minor any cartridge, gunpowder or other dangerous and explosive substance.

Under the Act of June 11, 1885, P. L. 111 (Toy Deadly Weapons 1), it is a misdemeanor, punishable by fine of $500 and one year's imprisonment, to knowingly and wilfully make, manufacture and sell any toy cannon, gun, pistol, revolver, or other such deadly weapon, or expose for sale any such deadly weapon made elsewhere and brought within the state.

Under the Act of June 1, 1911, P. L. 542, it is disorderly conduct, punishable by process of summary conviction before any alderman, magistrate or justice of the peace by fine of $25, or, in default thereof, by ten days' imprisonment, to set off, fire or make use of any firecracker over six inches in length, and any firecracker over three and one-half to six inches in length, over three-quarters of an inch in diameter; or to set off, fire or explode any firecracker or fireworks containing picric acid or picrates, dynamite, or other high explosive compound, or to explode any blank cartridge, pellet, or tablet containing dynamite or other high explosive compound, when used in pistols, hollow canes, or any toy for explosive purposes.

The Act of June 1, 1911, P. L. 554, makes it a misdemeanor, punishable by fine of $500 and six months' imprisonment, to manufacture, sell or offer or expose for sale, any of the articles forbidden to be exploded or used by the preceding statute.

PREVENTION OF BLINDNESS.

The Act of June 14, 1911, P. L. 928, provides that if at any time within two weeks after the birth of an infant one or both of its eyes, or the eyelids, be reddened, inflamed, swollen, or discharging pus, the midwife, nurse, or person in charge shall immediately report such condition to the health authorities and also to some legally qualified physician, and shall refrain from the application of any remedy. Failure so to do is punishable by fine of $100 and imprisonment in jail for six months, at the discretion of the court, alderman, magistrate or justice of the peace.

For provisions of the health laws on this subject see "Miscellaneous Health Laws" under "Public Health."

2. SCHOOL ATTENDANCE.

The various matters relating to school attendance are found in the School Code in Article XIV (Act of May 18, 1911, P. L. 309, at page 380). It is there provided that every child between six and twenty-one may attend school, but this period may be extended in either direction by the directors of any school district, especially (see section 1906) in the case of kindergartens and vocational and other special schools. Every child has the right to attend school in the district where he resides, which is the district where his parents or guardian lives or where the persons live who sustain parental relations to him; but where such pupil lives one and one-half miles, or more, from the nearest public elementary school in his district, and no free transportation is provided, he may attend any such school of another district upon obtaining permission from the directors of that district. It then becomes the duty of the district of his residence to pay the cost of such child's tuition, text-books and school

supplies to the other district. It is further provided that the directors may furnish free transportation for any pupil, and by agreement with another school district may, on account of convenience of access, or other reasons, permit any pupil to attend the schools of another district upon such terms as are mutually agreeable.

The years of compulsory attendance are from eight to sixteen, a proper private school or tutor being taken as the equivalent of the public school. The law relating to compulsory attendance relates to all children except,

(1) Those prevented from attending or from application to study "on account of any mental, physical, or other urgent reasons," which term is to be strictly construed and not to permit of irregular attendance.

(2) Those excused by the teacher during temporary periods, for such reasons as above stated.

(3) Those children between 14 and 16 who can read and write intelligently and are regularly employed during school hours, and to whom an employment certificate has been issued.

(4) Those children who live more than two miles, by the nearest travelled road, from any public school, unless proper free transportation be provided.

Any parent, guardian or person in parental relation having control of any child, who shall fail to comply with the compulsory attendance laws shall be given three days' written notice by the teacher, attendance officer or other school authority, and if the law is not then continuously obeyed, he may be prosecuted before any alderman, magistrate or justice of the peace and fined $2 for the first offence and $5 for each succeeding offence, with costs, and in default of payment shall be sentenced to the county jail for not more than five days.

Whenever the school authorities ascertain that a child cannot attend school on account of lack of necessary clothing or food, such case shall be promptly reported to any suitable relief agency, or, if there be none such, then to the directors or overseers of the poor for investigation and relief.

Every teacher in the public schools is given by law parental authority over the pupils in his or her school during the time they are in attendance, including the time required in going to and from their homes.

Every principal or teacher may temporarily suspend a pupil, giving notice to higher authorities; and the directors, or a committee thereof, may after hearing suspend him for a definite period or permanently expel him.

Children who are blind, deaf or mentally deficient shall, when capable of education and training, be provided instruction by the public school authorities, either in the district or elsewhere. The expense of such instruction, when outside of the public schools, shall be paid by the parents or guardian of the child, if able to do so. Any child reported by the medical inspector as not to be a fit subject for education and training is exempted from the law.

Under sections 1425 to 1431 of the School Code an enumeration of all children between six and sixteen in every school district shall be made

between April 1st and September 1st each year, giving the name, date of birth, age, sex, nationality, place of residence, name and address of parents, name and location of the school where such child belongs and the name and address of the employer of such child, if any. A list shall be given to each teacher or principal in the district before October 1st and a summary shall be sent to the Superintendent of Public Instruction on blanks provided by him. When any child fails to appear at school without lawful excuse it is the duty of the teacher or principal to report the fact to the attendance officer, who shall enforce attendance. In case these provisions are not carried out in any school district, the Superintendent of Public Instruction is authorized, after hearing, to withhold all or part of the State funds which had been allotted to such district.

Under sections 1432 to 1438 it is the duty of all districts of the 1st, 2d and 3d classes to appoint one or more attendance officers, and districts of the 4th class are empowered to do so. Such officers have full police power, without warrant, to arrest or apprehend any child who fails to attend school or who is incorrigible, insubordinate or disorderly during attendance at school or on his way to or from school. It is the duty of such officers to enforce the compulsory attendance laws, to look after children employed under certificates by inspecting their places of employment and ascertaining whether or not they are actually employed and to notify parents of their failure to obey the compulsory attendance laws or of the arrest of their children. Children who cannot otherwise be forced to attend school may be proceeded against in the juvenile court, or otherwise according to law.

3. CUSTODY OF CHILDREN.

When a dispute arises as to the possession or custody of a child, the matter is decided by habeas corpus proceedings in court, generally in the court of common pleas, but in Philadelphia County exclusive jurisdiction in such cases has been given to the Municipal Court by the Act of July 12, 1913, P. L. 711, establishing that court. Neither the father nor the mother has any absolute right to custody, either as against each other or as against third persons, but as against third persons there is a presumption (which the courts frequently disregard for the welfare of the child) in favor of the parent. The main question in such cases is, what is best for the permanent welfare of the child?

For many years the courts frequently stated that the rights of the father were paramount, but so many decisions were made, from time to time, against the father, that at last even the principle itself was abandoned, and the Act of June 26, 1895, P. L. 316 (Married Women 23 and 24), was passed giving any mother "who contributes by the fruits of her own labor or otherwise toward the support, maintenance and education of her said minor child the same and equal power, control and authority over her said child and * * * the same and equal right to its custody and services as is now by law possessed" by the father. The judges are given the power (which they already possessed) to decide, "in their sound discretion, as to which parent, if either, the custody of such

minor child shall be committed, and shall remand such child accordingly, regard first being had to the fitness of such parent and the best interest and permanent welfare of said child."

Under the Act of May 4, 1855, P. L. 430, as amended by Act of April 22, 1905, P. L. 297 (Married Women 25), when any father "from drunkenness, profligacy or other cause shall neglect or refuse to provide for his child or children," the mother is given all of his rights and duties as to such child or children; "Provided always, that she shall afford to them a good example and properly educate and maintain them according to her ability; and provided, that if the mother be of unsuitable character to be entrusted as aforesaid, or dead, the proper court may appoint a guardian of such children, who shall perform the duties aforesaid and apply the earnings of such children for their maintenance and education." This act has been held to be constitutional; and also that it gives the Orphans' Court the power to appoint a guardian for a child whose mother is dead and whose father, for any cause, fails to support it. Heinemann's Appeal (1880), 96 Pa. 112.

It is also the law in Pennsylvania that any person having the right to the custody of a child may, by contract, relinquish that right to another person; and such contract, if fair to the child and honestly lived up to by the new custodian, is valid and binding upon the former custodian.

The Act of May 5, 1911, P. L. 177, provides that whenever the father shall not have supported or contributed to the support of any child for a period of six months, or where the mother shall be charged by law with the child's support, the mother shall have the same right to the services of the child, and the same right to be compensated for the loss of such services, as is now by law possessed by the father.

4. MOTHERS' PENSIONS.

The Mothers' Pension Act of April 29, 1913, P. L. 118, provides for the appointment by the Governor of seven women in each county to act as trustees to carry out the purposes of the act, "to provide monthly payment, as approved by the trustees, to indigent, widowed, or abandoned mothers, for partial support of their children in their own homes."

The sum of $200,000 was appropriated for two years, one-half available each year, the said amount to be divided among the various counties of the State in proportion to their population in the census of 1910, but any county desiring to receive its share must appropriate a like sum from its public funds. This makes available a total of about $40,400 a year for Philadelphia County, $26,600 a year for Allegheny County, and other counties in proportion to their population.

Out of these funds the Act permits the payment of administration expenses, as follows: In Philadelphia, $3,000 a year. In counties with second class cities, $2,400 a year. In counties with third class cities, $1,800 a year. In other counties, $1,200 a year. In the first year an additional sum of $500 may be spent for furnishing. The balance of the money is available only for pensions, which must not exceed $12 a month for one child, $20 a month for two children, $26 a month for

three children, and $5 a month extra for each additional child. The trustees may discontinue payment at any time, and they must stop at the time the law will permit a child to secure employment. The amount of money available and the rate allowed to each family would permit about 125 pensions in Philadelphia and 80 in Allegheny County, and others in proportion.

The act provides for a thorough investigation, and that no pension shall be paid until the trustes "are thoroughly satisfied that the recipient is worthy in every way, and that, in order to keep her children in her own home, a monthly payment is necessary." Four copies of the complete record in each case shall be made—one to be on file in the office of the trustees as a public record, one in the Juvenile Court, or the Orphans' Court where there is no Juvenile Court, one sent to the Auditor General and one to the County Treasurer.

It is further provided that no family shall receive a pension unless the mother has been a continuous resident of the county in which she applied for a period of three years.

CHAPTER II.

CHILDREN AND THE COURTS.

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1. JUVENILE COURTS.

The Juvenile Court Act is the Act of April 23, 1903, P. L. 274 (Juveniles 135 to 147). It has been amended by the Acts of April 1, 1909, P. L. 89; April 22, 1909, P. L. 119; June 1, 1911, P. L. 543; June 15, 1911, P. L. 959 and July 25, 1913, P. L. 1039. A number of supplements have also been enacted and will be noted at the appropriate place of each. The provisions of the Juvenile Court Act are shortly as follows:

Juvenile court jurisdiction in all counties except Phiadelphia is placed in the Courts of Quarter Sessions of the Peace of the several counties, but all hearings must be held separate and apart from all other cases and its dockets and records are kept entirely separate. In Philadelphia, under the Municipal Court Act of July 12, 1913, P. L. 711, exclusive jurisdiction in such cases is placed in the Municipal Court, which is required to designate one judge to hold Juvenile Court for a period of not less than one year.

Juvenile Court jurisdiction comprises all proceedings "affecting the treatment and control of dependent, neglected, incorrigible and delinquent children under the age of sixteen years."

"Dependent child" and "neglected child" mean "any child who is destitute, homeless, abandoned, or dependent upon the public for support, or who has not proper parental care or guardianship."

"Incorrigible child" means "any child who is charged by its parent or guardian with being unmanageable."

"Delinquent child" means "any child, including such as have heretofore been designated incorrigible children, who may be charged with the violation of any law of this commonwealth, or the ordinance of any city, borough or township."

Under section two cases are brought before Juvenile Court in any one of the following four ways:

(1) Upon the petition of any citizen.

(2) After a child has been arrested on a charge of crime, the magistrate or justice of the peace may certify the case to Juvenile Court.

(3) After a case has been sent to court for indictment and trial, the distirct attorney may certify it to Juvenile Court.

(4) After indictment of a child on a criminal charge, the judge trying the case may certify it to Juvenile Court.

After Juvenile Court jurisdiction has attached, and pending final disposition of the case, the child is subject to the order of the court and may be permitted to remain with its parents or others in charge of it, or with the probation officer, or may be kept in some place provided by the State or county authorities, or by any association having for one of its objects the care of delinquent or neglected children, as the court may order.

Under section three, as supplemented by the Act of May 11, 1911, P. L. 268, the court may appoint probation officers, clerks, stenographers and office assistants and fix their salary at not more than $100 a month, except in Philadelphia County, where the Municipal Court Act allows a salary of not more than $3,000 to the chief probation officer and $1,500 to additional probation officers.

Attention is here called to the fact that the child is not on trial under this act, but under section four the judge hearing the case (there is never a jury) "shall determine, after an inquiry into the facts, what order for the commitment and custody and care of the child the child's own good and the best interests of the State may require." The court may commit the child to the care of its parents, subject to the supervision of a probation officer, or to some institution, or to some individual of good moral character, or to some training or industrial school, or to some association willing to receive it. And an order of support may be made against the parents enforceable in the same way as orders in non-support cases. Under section five, the associations or individuals to whose care a child is committed become guardians of the person of the child and may give legal consent to its adoption by court order, as well as place it in a family home.

Under section six, as amended by the Act of July 25, 1913, P. L. 1039, the court may act in any case brought before it in one of the following ways:

(1) It may continue the hearing from time to time and commit the child to the care of a probation officer, allowing the child to remain in its own home subject to visitation by the probation officer, the child to report as often as required and be subject to be returned to the court for further proceedings whenever this appears necessary.

(2) It may commit the child to the care of a probation officer to be placed in a suitable family home, subject to the supervision of such probation officer.

(3) It may authorize the probation officer to board out the child in some suitable family home, in case provision is made by voluntary contribution, or otherwise, for the payment of board.

(4) It may direct the payment of the board by the county, until a suitable provision may be made for the child in a home without such payment.

(5) It may commit the child to a suitable institution for the care of delinquent children, or to any incorporated society which has for one of

its objects the protection of such children, and may direct that the payment of the board of such child shall be made by the proper county.

Section seven provides that no child shall be confined in any jail, police station or institution to which adult convicts are sentenced.

By section eight, as amended by Act of April 22, 1909, P. L. 119, the court is given power to amend, change or extend any order at any time after five days' notice to the district attorney and chief probation officer; and the jurisdiction of the juvenile court over a child shall continue, at the discretion of the judge, until the child becomes twenty-one years of age.

Section nine provides that children shall be committed, as far as possible, to the care of persons of the same religion as the parents, or with some association which is controlled by persons of such religious belief. The discipline of the child shall be as nearly as possible that which should be given by its parents. In all cases where it can properly be done, the child shall be placed in an approved family home, and become a member of the family by legal adoption or otherwise.

By section ten, a delinquent child under twelve shall not be committed to an institution of correction or reformation, unless, after a period of probation, the court finds that the best interests of the child and the welfare of the community require such commitment; and a neglected or dependent child, who is not delinquent, shall not be committed to any institution of correction or reformation in which delinquent children are received, nor shall any delinquent child be committed to any institution in which dependent or neglected children are received.

By section eleven, nothing in the Juvenile Court Act deprives the courts of quarter sessions and oyer and terminer to try any child upon indictment in the regular course of the criminal law.

By the supplementary Act of June 9, 1911, P. L. 836, the court may order the legal costs of the case to be paid by the county, or by the complainant if the complaint was made without proper cause, or by the parents or custodian if they were at fault and are of ability to pay; but all costs are to be paid by the county in the first instance; but the county is liable only for witnesses certified as necessary by the probation officer or by the court.

Under the supplementary Act of June 7, 1907, P. L. 438 (Juveniles 148 to 152), the probation officer may call upon the sheriff for assistance in serving a process or executing an order of court. The fees for such assistance as well as the fees of constables in Juvenile Court cases are fixed in this act.

Under the supplementary Act of May 6, 1909, P. L. 434, knowingly assisting or encouraging any child to whom the jurisdiction of the court has attached in violating his or her parole, or contributing to the delinquency of such a child, is a misdemeanor punishable by fine of $500 and one year's imprisonment.

Under the Act of March 22, 1899, P. L. 15 (Juveniles 122 and 123), the Federal Courts in Pennsylvania may commit minors to any reformatory, house of refuge or other institution for juvenile delinquents, the cost thereof to be paid by the United States.

2. MAINTENANCE UNDER COURT ORDER.

DETENTION ROOMS.

Under the Act of April 3, 1903, P. L. 137 (Juveniles 68), as amended by the Act of July 21, 1913, P. L. 870, it is the duty of the county commissioners of each county to provide suitable rooms to be used exclusively for the confinement of children under sixteen who are in custody awaiting trial, and to provide for their maintenance and care.

HOUSE OF DETENTION.

The Act of July 2, 1901, P. L. 601 (Juveniles 69 to 78), provides for a house of detention in every county containing a first or second class city, to be maintained at public expense, for the reception of juvenile offenders and neglected and dependent children pending final determination of their cases. A board of managers appointed by the court shall take charge of the management of such houses, and shall not detain more than twenty-five children in one house, but shall provide additional houses where necessary.

IN HOUSE OF REFUGE.

The Act of March 27, 1903, P. L. 83 (Juveniles 114 to 119), provides that when a child has been committed to a house of refuge not under State control, half of the expenses of maintenance shall be paid by the county from which such child was committed and the other half shall be paid out of the State appropriation to the institution.

IN INDUSTRIAL SCHOOLS.

The Act of April 15, 1903, P. L. 208 (Juveniles 32 to 34), provides that when a child has been committed to any industrial school, or other institution of like character, whose parents or guardian are not of sufficient ability to pay the expense of maintaining and instructing such child, such expenses shall be paid by the county and shall not exceed the cost in the house of refuge.

IN PRIVATE HOMES.

Under the Act of May 31, 1907, P. L. 331 (Juveniles 11a), whenever any judge "or other competent authority" shall commit any indigent or dependent child to the care and custody of any person or family, such child shall be conveyed to the home at the expense of the county and the cost of maintenance shall also be paid by the county, but at a sum not exceeding what it would cost in the House of Refuge, or other public institution of such county.

If at any time the parents or other relatives of such child become able to pay such costs, or to refund the money already paid, the county may obtain and enforce an order of support in the same manner as in cases of non-support of wife and children.

OUTSIDE THE STATE.

Under the Act of June 7, 1911, P. L. 676, the county shall pay the "reasonable charge" for the maintenance of a child committed by the Juvenile Court to homes or institutions outside the State, the itemized statement of such charges to be in such form as the controller of the county may require.

FEDERAL COURTS MAY COMMIT TO INSTITUTIONS.

The Act of March 22, 1899, P. L. 15 (Juveniles 122 and 123), requires the persons in control and charge of any reformatory, house of refuge, or other institution for juvenile delinquents or juvenile convicts to receive in their respective institutions all persons sent to them by the United States Courts in Pennsylvania, when they are required to receive the same kind of cases from State courts, it being provided that no person shall be admitted unless residing in this commonwealth.

The cost of the maintenance of such persons shall be paid by the United States in the same way as persons committed by those courts to the Eastern and Western Penitentiaries.

CHILDREN PAROLLED BY INSTITUTIONS.

Under the Act of April 22, 1909, P. L. 113, the managers of any house of refuge or reform school may release any child on parole, and if the child has no relative capable of taking charge of him, and by reason of mental or physical defects is incapable of working for his living, they may pay his board in some proper home, not exceeding in amount the current per capita charge. As long as the board is being thus paid, the child shall be counted as an inmate and a charge made to the proper county for maintenance.

RIGHTS AND LIABILITY OF COUNTY.

Under the Act of May 8, 1913, P. L. 177, when a child is committed to the care of any person or society, and the county is to pay expenses, then there shall be a legal liability on the part of the county to such person or society; and the county shall in all cases have full recourse to recover such expenses from the persons or poor districts properly chargeable therewith under the laws of the commonwealth.

COMMITMENT TO CHARITABLE SOCIETIES.

The Act of June 8, 1893, P. L. 399 (Juveniles 124 to 130), as supplemented by the Act of May 11, 1911, P. L. 270, made it lawful for any society having for one of its objects the protection of children from cruelty, or any child-placing society, duly incorporated, to receive into its care any child committed to it by any justice of the peace, magistrate or judge, upon proof of one of the following states of fact:

(1) Such child, by reason of incorrigible, unmanageable, vicious or wayward conduct, is beyond the control of its parent or guardian.

(2) Its parents, by reason of vagrancy, incorrigible or vicious conduct, criminal offence, moral depravity or cruelty, are unfit to have the training and control of such child.

(3) Such child is a vagrant and has no parent or guardian capable or willing to restrain, manage or take proper care of it.

(4) Such child has been committed after conviction of a criminal offence.

After a commitment it becomes the duty of the society to look after such children, and, if they are placed in a private home, to see that the persons with whom they are placed are of the same religious denomination as that of the child's parents.

Section 9 of the Child Protection Act of June 11, 1879, P. L. 142 (Juveniles 10), also provides for such a commitment by a justice of the peace, magistrate or court, after conviction of the parent or guardian of a violation of law towards such child, or where the parents or guardian cannot be found.

The validity of commitments made by magistrates under the above acts have come before the courts in several cases. It was specifically provided by the Act of March 26, 1903, P. L. 66 (Juveniles 153), that no child under sixteen shall be committed by any magistrate or justice of the peace to any institution for the purpose of correction or reformation, but only by the court of quarter sessions. Under this act and under the terms of the Juvenile Court Act of April 23, 1903, P. L. 274 (Juveniles 135 et seq.), it has been uniformly held that no such commitments may now be made by magistrates or justices of the peace, but only by Juvenile Court. See Commonwealth ex rel. Diehl v. Pennsylvania Society to Protect Children from Cruelty, 36 Pa. C. C. 37, 18 D. R. 19. In re Petition of the Pennsylvania Society to Protect Children from Cruelty, 22 D. R. 347.

Under the Act of May 11, 1911, P. L. 270, when a commitment in any case is refused by the court, the costs may be placed on the county or on the complainant, or on both in such proportion as to the court shall seem equitable.

DETENTION OF CHILDREN BY POOR AUTHORITIES.

Under the Act of June 13, 1883, P. L. 111 (Juveniles 19 to 21), it is unlawful for the poor authorities to receive into or retain in any almshouse or poor house any child between two and sixteen for a longer period than sixty days, unless such child be an unteachable idiot, an epileptic or a paralytic, or otherwise so disabled or deformed as to render it incapable of labor or service. Normal children between two and sixteen under charge of the poor authorities shall be paced in some respectable family or in some educational institution or home for children, and shall there be visited regularly by the agent of such poor authorities.

The same act empowers any county, or any two or more counties acting together, to establish and maintain an industrial home for the care and training of children; but this must be remote from the poor house and under separate management.

3. ADOPTION.

Adoption of children is generally under the Act of April 22, 1905, P. L. 297 (Adoption 1), under which the adopting parent presents his or her petition to the court of common pleas in the county of his or her residence, and such court may, after proper written consent is filed, decree that such child shall assume the name of the adopting parent and have all the rights of a child and heir of such adopting parent. If a husband and wife wish to adopt a child, both should join in the petition, otherwise the child will be the heir of the one only who petitions.

The consent above mentioned may be given by the following:

(1) Parents, or the surviving parent if one be dead.

(2) Or, if the child shall have been judicially committed under the Juvenile Court Act to the care of any person or institution as being destitute, homeless, abandoned or dependent on the public, or having no parental care, then by such person or institution and that of the non-neglecting parent, if one be living.

(3) Or, if the parent or parents have been three times convicted of any crime against or in relation to the child, before any magistrate or court of record, and the child shall have been committed to the care of any person or institution, then with the consent of such person or institution and that of the innocent parent, if one be living.

(4) Or, if a parent, from drunkenness, profligacy or other cause, shall have neglected or refused to provide for the child for one year, then with the consent of the non-neglecting father or mother alone.

(5) Or, if none, of the next friend of the child.

(6) Or, with the consent of the guardians or overseers of the poor.

(7) Or, with the consent of such charitable institution as shall have supported the child for at least one year.

Under the Act of July 2, 1901, P. L. 606 (Adoption 5), a resident of another state if a fit person may adopt a child in this state upon the petition of the parents or the survivor of them, or, if none, of the next friend of the child, or of the overseers of the poor, or of such charitable institution as shall have supported the child one year.

Under the Act of April 2, 1872, P. L. 31 (Adoption 4), a child may also be adopted by deed of its parents, recorded in the Recorder's Office of the county where the adopting parents reside at the time of the execution of the deed. The recording is essential to the validity of this method.

Under the Act of June 1, 1911, P. L. 539, an adult person may be adopted as an heir upon the petition of the adopting parent, the written consent of such adult person, and of his or her wife or husband, if any, being presented. The adopting parent and the adopted adult shall then have all the rights and be subject to all the duties as if the latter had been born the lawful child of the former; and the adopted adult may change his name if he so desires.

Under the child protection Act of June 11, 1879, P. L. 142, section 10 (Juveniles 11), any minor child who has been deserted by its parents and has no legal guardian may be adopted by order of the court of

common pleas in the same manner as if its parents were dead, namely, with the consent of the next friend of the child.

4. APPOINTMENT OF GUARDIANS.

Under the Act of March 29, 1832, P. L. 190 (Orphans' Courts, 73 et seq), jurisdiction for the appointment of guardians of minors is vested in the Orphans' Court of the county in which the minor resides. Two kinds of guardians are mentioned, guardians of the "persons" and of "estates," and therefore the guardian of the person of a minor may be a different person from the guardian of his estate. Minors must choose their own guardian in open court, but the court appoints guardians "for such as they shall judge too young or otherwise incompetent to make choice for themselves." The statute mentions no age above which minors may choose for themselves, but the courts of this state universally accept fourteen as such age.

It is aso provided that "persons of the same religious persuasion as the parents of the minors shall, in all cases, be preferred by the court in their appointment."

The act also provides that no executor or administrator shall be appointed guardian of a minor who has an interest in the estate of which he is executor or administrator; but this rule does not apply to testamentary guardians, which are guardians appointed by a parent in his or her will. Such guardians are recognized (Decedents' Estates, 181 to 186), but the right to appoint testamentary guardians does not extend beyond the parents, as, for instance, to a grandparent.

A guardian appointed by another state has no right to interfere with the estate, or control the person, of a minor in this state; but the Orphans' Court may appoint the same person here, upon his entering security.

In all cases the court may require security in such amount as it may deem proper. The guardian shall file an account at least once in three years, and shall end his trust by filing a full and complete account and submitting to an audit and distribution when the ward becomes twenty-one years of age.

Under section 5 of the Juvenile Court Act, any association or individual to whom the care of a dependent child is awarded stands in the position of a guardian of the person of such child, and may give legal consent to the adoption of such child.

5. INSTITUTIONS FOR CHILDREN.

HOUSE OF REFUGE, PHILADELPHIA.

The House of Refuge, at Philadelphia, is a semi-public institution stablished under the Act of March 23, 1826, P. L. 133, and its supplements (Juveniles 79 to 93), as well as the Act of March 24, 1909, P. L. 62. Its managers shall receive, at their discretion, boys and girls under twenty-one from any of the eastern counties committed to their custody in either of the following ways:

(1) Children who are taken up or committed as vagrants, or upon any criminal charge, or duly convicted of criminal offences, and who are committed by the courts to the House of Refuge.

(2) Children committed by an alderman or justice of the peace on the complaint of the parent, guardian or next friend that by reason of incorrigible or vicious conduct of the child such parent, guardian or next friend has lost control of the child, and regard for the morals and future welfare of the child requires that it be sent to the House of Refuge.

(3) Children committed by the same authority where complaint and due proof show the child to be incorrigible or vicious, and that from the moral depravity, or otherwise, of the parent or next friend, the latter is incapable or unwilling to exercise the proper care and discipline over such child.

The managers have power to place children committed to the House of Refuge at such employments, and cause them to be instructed in such branches of useful knowledge as may be suitable to their years and capacities; they have power to bind out children, with their consent, as apprentices, to learn such trades as in their judgment will be most conducive to their reformation and amendment, and will tend to their future benefit and advantage.

The question as to whether any person has been illegally committed or detained by the House of Refuge may always be brought up in court by habeas corpus.

Under the Acts of May 11, 1901, P. L. 158, and March 27, 1903, P. L. 83 (Juveniles 109 to 119), one-half of the expense of maintaining and instructing each child shall be borne by the county from which the child is committed and the other one-half shall be paid by the State out of the appropriations made to the institution from time to time.

MORGANZA.

"The House of Refuge of Western Pennsylvania," now located at Morganza, is established and governed under the Act of April 22, 1850, P. L. 538, and its supplements (Juveniles 94 to 105).

Children are committed to Morganza in the same way and under the same rules as to the House of Refuge in Philadelphia. Under the Act of March 18, 1851, P. L. 199 (Juveniles 89, note), children may be sent from the following counties to Morganza: Allegheny, Armstrong, Beaver, Butler, Cambria, Crawford, Erie, Fayette, Greene, Indiana, Jefferson, Mercer, Somerset, Venango, Warren, Washington and Westmoreland; McKean was added by another act.

The managers may make all necessary rules and regulations for the government of the institution and the instruction and employment of the children. They are also authorized to bind out such children as apprentices, with their consent, to such persons and to learn such trades as will be conducive to their reformation and will tend to their future advantage.

The cost of maintaining and educating such children shall be at the expense of the proper county.

HUNTINGDON.

The State Industrial Reformatory, at Huntingdon, was built under the Act of June 8, 1881, P. L. 63, and is conducted and managed under

the Act of April 28, 1887, P. L. 63, and the supplements thereto (Huntingdon Reformatory 1 to 43).

The last mentioned act provides that any court exercising criminal jurisdiction may sentence to Huntingdon any duly convicted male criminal between the ages of fifteen and twenty-five and not known to have been previously sentenced to state prison. Every sentence to Huntingdon shall be a general sentence, and not for a definite term, but imprisonment shall not be for a longer period than the maximum time provided by law for imprisonment for the crime of which the prisoner was convicted.

As the aim and purpose of the industrial reformatory is to prevent young first offenders from becoming criminals, and to subject them while in custody to such remedial, preventive treatment, training and instruction as may make them honest, reputable citizens, the managers are empowered to establish such a system of discipline as will secure to each inmate instruction in the rudiments of an English education, and in such manual, handicraft, skilled vocations as may be useful to each of the inmates after his discharge from the reformatory. A system of marks of credits and rewards is required by law, and a semi-annual report of the standing of each inmate shall be made to the Governor and filed in the office of the Secretary of the Commonwealth. The managers are further empowered to release prisoners on parole and to arrest them if they break the conditions of their parole.

When, in the opinion of the superintendent, physician and moral instructor any inmate is deemed so improved as to justify his liberation, such fact, with the full record of the prisoner, is certified to the court where he was convicted, and said court is thereupon empowered to order the prisoner's discharge. The Governor may also restore such person to full citizenship.

GIRARD COLLEGE.

The Act of February 27, 1847, P. L. 178, empowers the guardians of the poor of Philadelphia, the district of Southwark and townships of the Northern Liberties and Penn, with the consent of the mother, guardian or next friend, or if none, by their own authority, to bind any poor, white, male orphan child within this commonwealth, between the ages of six and ten, by indenture, to the mayor, alderman and citizens of Philadelphia as trustees under the will of Stephen Girard, as an orphan to be admitted into the said college and there maintained and educated according to the provisions of said will.

PHILADELPHIA PROTECTORY FOR BOYS.

Under the Act of May 11, 1901, P. L. 187 (Juvenies 66 and 67), any court in the commonwealth, with consent of parent, guardian or custodian, may commit any boy to the Philadelphia Protectory for Boys, located at Protectory, Montgomery County, upon proof that such boy, by reason of incorrigible behavior or vicious conduct, has become beyond the control of his parents, guardians or custodians.

THADDEUS STEVENS INDUSTRIAL SCHOOL.

The Act of May 11, 1905, P. L. 518, as amended by the Act of April 15, 1907, P. L. 91, and the Act of April 29, 1909, P. L. 274, provides for an institution for the education and training of indigent orphan boys, called the Thaddeus Stevens Industrial School, and situated in Lancaster, Pa.

The institution shall receive indigent orphan boys, from the State of Pennsylvania, under fourteen, whose admission may be applied for under such regulations as the Board of Trustees may adopt. No preference shall be shown on account of race, or color or religion.

If not enough boys of this class to fill the school shall apply, then the trustees may admit, first, orphans who may not be indigent, and, afterwards, other deserving boys who are not orphans. An orphan is defined as any boy who has lost either parent.

There is instruction provided in regular branches, in elementary manual training and in the elements of farming.

COUNTY SCHOOLS FOR BOYS.

By the Act of May 1, 1909, P. L. 302, as amended and supplemented by the Acts of March 15, 1911, P. L. 18; May 11, 1911, P. L. 262; May 20, 1913, P. L. 262, and May 20, 1913, P. L. 263, counties of more than 300,000 and less than 1,200,000 population (at present, Allegheny and Luzerne) are required to establish a school for boys, supplementary to the public school system, to be kept open during the entire year and built on the cottage home plan. Such schools shall receive boys upon the commitment of the juvenile court of the county, and upon proper compensation being arranged for, may receive boys committed by the juvenile courts of other counties. The school shall be presided over by a superintendent trained in educational and social work. It shall have the power of detention over the boys committed, and may, with the consent of the court, release boys on parole upon such conditions as the managers may prescribe. Upon unsatisfactory conduct the school may apprehend such boys and give them further training during their minority.

Such schools are under the management of nine persons appointed by the Court of Common Pleas of the county, who, with the County Commissioners, make up the Board of Managers.

The Board of Managers is further empowered to provide for paying the boys a portion of the earnings of the school for the work performed by them. The remainder is to be paid into the county treasury.

CHAPTER III.

DESERTION AND NON-SUPPORT.

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INTRODUCTION.

There are several laws in Pennsylvania under which court action may be taken to force one person to pay for the support of another. These laws are peculiarly useful to persons engaged in social work, and will be considered separately in the following order:

1. The law most often invoked and most adequate in its operation is the summary proceeding under the Act of 1867, as amended, supplemented and amplified by later legislation, for the support of wives and children by their husbands and fathers.

2. Of exactly the same nature of legislation is the Act of 1895 for the support of parents not able to work or of sufficient ability to maintain themselves, by their child or children of full age.

3. For the purpose of punishment, as well as support, and most useful in cases where extradition is desired, is the Act of 1903 making the desertion of wife, child or children, leaving them destitute or dependent wholly or in part on their earnings for adequate support, by the husband or father, a misdemeanor.

4. In Pennsylvania alimony does not accompany divorce from the bonds of matrimony, but in the case of a legal separation, known as a divorce from bed and board, alimony is allowed to the wife.

5. In order to obtain support from the father of an illegitimate child, such father must be convicted of fornication and bastardy under the Act of 1860. The court is then empowered, as part of its sentence, to order the father to pay the lying-in expenses and such support as the court may fix, and to require a bond to obey the order.

6. When a child is before the Juvenile Court, the Juvenile Court Act of 1903 empowers that Court to make and enforce an order of support against the parent or parents of such child.

7. Under the Act of May 31, 1905, P. L. 331, whenever a child is placed, at the county's expense, in the care of any person, it is provided that if at any time the parents or other relatives become able to repay the county and to pay support, the county may go into court and obtain an order for such payment, and may enforce the same.

8. The supplement to the Poor Law known as the Act of April 6, 1905, P. L. 112, makes the husband, the wife, the father, the mother, and the children of every poor person liable for the support of such poor person. It is said that this law repealed by implication the section of the Act of June 13, 1836, which is in nearly the same words, but as the latter act included also grandparents and grandchildren, it was probably not repealed as to them, but is still in force.

9. A wife may maintain a civil suit, either in law or equity, against her husband for maintenance under the Act of 1907, and may collect her judgment or decree out of any property, real or personal, that she can find; and this, whether the husband is within the county so he may be personally served or not.

10. Under the common law, any person may furnish necessaries to a wife or minor child, and may sue and collect their value from the husband or father.

11. In addition to the above, there are several miscellaneous provisions of the Poor Law by which support may be obtained in certain cases.

1. THE NON-SUPPORT ACT OF 1867.

The Act of April 13, 1867, P. L. 78 (Desertion, 15, 16, 17 and 18), as amended, supplemented and amplified by the Acts of April 15, 1869, P. L. 75 (Desertion, 19), March 5, 1907, P. L. 6; April 27, 1909, P. L. 260; April 15, 1913, P. L. 72; June 11, 1913, P. L. 468, and June 12, 1913, P. L. 502, forms one of the most excellent systems for compelling a husband and father to furnish support for his wife and children that is possessed by any State. As interpreted and practiced by the courts it is as broad, untechnical and certain in its operation as such a law can well be. Failure in any case to secure justice cannot properly be laid to the law, but, when it occurs, is most often due to the inadequately developed sense of social justice on the part of the judge who happens to be enforcing the law. By the Act of May 5, 1911, P. L. 198, exclusive jurisdiction under this act in Allegheny County is placed in the County Court of that County, and by the Act of July 12, 1913, P. L. 711, exclusive jurisdiction under the act in Philadelphia County is in the Municipal Court of that County. This exclusive jurisdiction for the County Court of Allegheny County was sustained as constitutional by the Superior Court in the case of Com. v. Hopkins, 53 Pa. Super. Ct. 16, and by the Supreme Court on appeal in the same case, reported in 241 Pa. 213. In the other counties of the State the jurisdiction remains in the Court of Quarter Sessions of the Peace.

The operation of the law is very simple. An information is made by the wife, or by another person, before some magistrate, alderman or justice of the peace, who issues a warrant to a constable or other officer.

The defendant is thereupon arrested by the officer and taken before the magistrate, alderman or justice of the peace who issued the warrant and held for court without hearing, bail being taken or, in default thereof, the defendant committed to jail. The arrest may be made in any county of the State under the Act of May 2, 1899, P. L. 173 (Criminal Procedure, 3). The defendant is entitled to be taken before the nearest magistrate, alderman or justice of the peace if he wants to give bail for court, but if this privilege is not exercised he is brought before the one issuing the warrant.

The defendant having given bail for court or been committed for want thereof, the information, warrant and proceedings thereon are filed "immediately" with the clerk of the court having jurisdiction, and a time for hearing is thereafter fixed by that court, usually within a very few days. Notice of the time set is sent to the officer in the case and he then subpœnas the wife and the witnesses and notifies the defendant.

There is no indictment nor grand jury hearing under the law, nor is there any jury at the court hearing.

On the day set for the hearing, the parties and their witnesses simply appear before the judge, either with or without attorney, and the case is heard. The court can then make an order of support, specifying the amount per week or month which the defendant must pay, and the person to whom it must be paid. This may be the wife herself, or it may be a desertion probation officer, some charitable organization or institution, or any other person or persons, who may be designated to receive the money and use it for or turn it over to the wife and children. In Philadelphia, the Department of Charities collects in this way more than $250,000 a year, and in Allegheny County the same work is in charge of the Probation Officer, who is collecting about $125,000 a year.

In order to enforce compliance with the order, the court may require a bond with good and sufficient sureties in such sum as may be named, and commit the defendant to prison until such bond is furnished; or the court may allow a man to go on his own recognizance on probation under such conditions as the court may fix.

Until the Act of June 12, 1913, P. L. 502, was passed the courts were without sufficient power to enforce their orders. All that could be done was to hold a man in jail. Under that act a man may now be committed by the court either for want of a bond with surety, or for contempt in failing to pay in accordance with an order previously made, at hard labor in some penal or reformatory institution; and such institution shall pay for his labor, as part of its general running expenses, the sum of sixty-five cents a day for the support of his wife and family. Such imprisonment may be continued, at the discretion of the court, until tthe defendant gives bond or until the wife dies or the children come of age and so are self-supporting. Such an extensive power in the hands of the court has been found necessary in order to meet the evil and there is little danger that it will be abused. The danger is, rather, that the courts will exercise their power too sparingly.

Under the amendment of April 15, 1913, P. L. 72, an order of support may be collected from any money or property to which the

husband may be entitled, including any spendthrift trust, by the issuing of a writ of execution attachment or other appropriate writ. This amendment is very broad in its terms and it is probable that under it wages owing any defendant can be attached. This has been so held by the County Court of Allegheny County, which has held also that wages owing by a municipality to its employee may be attached, although money in the hands of a municipality is not ordinarily attachable in payment of judgment debts. It is to be hoped that these decisions will be sustained by the higher courts.

Under the supplement of June 11, 1913, P. L. 468, real estate held jointly by husband and wife, known as an estate by entireties, may be sold on execution issued out of the court which has made an order of support, and the money derived from such sale shall be equally divided between husband and wife. This law enables a wife to realize upon her interest in such property without her husband's signature to a deed in cases where he fails to furnish adequate support for her and their children.

2. AGED PARENTS.

Under the Act of June 25, 1895, P. L. 269 (Desertion, 10 to 14), parents unable to work or not of sufficient ability to maintain themselves may force their children of full age, being of sufficient ability, to furnish support in exactly the same way, and in the same courts, as wives and children may force their husband or father under the Act of 1867, as above set forth. The only differences from the law as above set forth are as follows:

(1) The amount of the order is limited to fifty dollars a month.

(2) No proceedings may be had against any property of the defendant, either real or personal, to force compliance with the order, unless possibly suit is brought on the bond given.

All other features of the wife desertion law apply to this law, including the hard labor provision with sixty-five cents a day payable to the parent, or as the court shall order.

3. MISDEMEANOR ACT OF 1903.

Under the Act of March 13, 1903, P. L. 26 (Desertion, 20 to 22), it is a misdemeanor punishable by one year's imprisonment and $100 fine "if any husband or father, being within the limits of this commonwealth, shall hereafter separate himself from his wife or from his children, or from wife and children, without reasonable cause, and shall wilfully neglect to maintain his wife or children, such wife or children being destitute, or being dependent wholly or in part on their earnings for adequate support," by "children" being meant only those under sixteen and those between sixteen and twenty-one who, by reason of infirmity, are incapable of supporting themselves.

This is an ordinary criminal statute, and the procedure under it is exactly the same as the procedure under any other criminal statute, at least up to the point of sentence after conviction. There must be grand

jury indictment and jury trial unless a plea of guilty or nolo contendere is entered.

At the time of sentence, however, the court may make an order of support and suspend sentence and release the defendant, upon his giving bond, with or without surety in the discretion of the court, during his compliance with the order of support.

This law, being cumbersome and rather technical, is practically never used except in extradition cases where it is desired to bring a defendant back from another state. (See Extradition.)

4. ALIMONY.

Under the divorce acts of Feb. 26, 1817, 6 Sm. L. 405, and April 11, 1862, P. L. 430 (Divorce, 15 and 16), a wife can get a divorce from bed and board on the grounds of (1) malicious desertion, (2) cruel and barbarous treatment endangering her life, (3) indignities to person or (4) adultery. In granting such a divorce, the court of common pleas may allow the wife "such alimony as her husband's circumstances will admit of, so as the same do not exceed the third part of the annual profit or income of his estate or of his occupation and labor." It is also provided that he must return one half of all the estate she brought him upon her marriage.

By the Act of April 15, 1845, P. L. 455 (Divorce 40 and 41), a decree for alimony is entered as a judgment and becomes a lien on the real estate of the husband in the county. Any kind of an execution can be issued for any sum in arrears, in the same way as upon a judgment. In cases where this lien on real estate is not deemed sufficient by the court and proof is made that the husband "is possessed of sufficient estate," the court may require security to be given that the decree will be obeyed.

It is also provided in the same act that the courts may enforce their decrees by attachment, "on the return of which they may make such order, either to imprison or discharge the defendant, as the facts of the case may justify."

This method of obtaining support would be more useful if the court procedure under it were quicker. The courts can control the practice by rule of court, and they should draw a distinction between divorces from the bonds of matrimony, which should not be granted too quickly, and divorces from bed and board, which should proceed with the utmost dispatch in order to be a useful remedy for the wronged wife.

5. ILLEGITIMATE CHILDREN.

In order to obtain support for an illegitimate child from the father of such child, it is necessary to bring a prosecution under the fornication and bastardy law of March 31, 1860, P. L. 382, §§ 37 and 38 (Crimes, 161 and 162), which law provides the penalty of a fine of $100 for "any person" convicted of fornication, and the birth of a child to a single or unmarried woman is sufficient to convict her. The man charged by her to be the father shall be the reputed father of such child, and upon conviction shall be sentenced, in addition to the fine, to pay the expenses

incurred at the birth of the child, and to give security, in such sum as the court shall direct, to pay such sum for the child's maintenance as the court shall order.

These proceedings must be begun in the county where the child was born; but if begun before birth, then in the county where the fornication took place and the child was begotten. The statute of limitations of two years applies to this proceeding, and, if the defendant remains a resident of Pennsylvania, there must be an indictment by the grand jury within two years, not from the birth of the bastard child, but from the act of fornication at which it was begotten. If the reputed father becomes a non-resident of the State within the two years, the Statute of Limitations, being § 77 of the Act of March 31, 1860, P. L. 427 (Limitation of Actions, 21), does not run during the period of such non-residence.

The amount and duration of the order of maintenance is wholly at the discretion of the court. A custom obtains in many counties to limit the order to five or seven years in duration, the amount being variable depending on the circumstances of the reputed father, sometimes even being as small as $1.50 or $2 a week.

The court has jurisdiction to hold the defendant in jail if he fails to give a bond to pay such sum as the court may order, but this imprisonment can only be for three months because the defendant can be released at the end of that period under the Insolvency Law of June 16, 1836, P. L. 729 (Insolvency 93). Such a proceeding entirely relieves the defendant of all payments due up to that time, and he is allowed to go free without a bond. While he is not relieved from making subsequent payments, and after acquired property may be attached, still there is no doubt that the effectiveness of the bastardy law is very much weakened by the operation of the insolvency laws.

The Act of June 7, 1907, P. L. 429 (Criminal Procedure 155 a to f), furnishes a simple and effective method of collecting fornication and bastardy orders out of any property, wages or salaries owed to or owned by the defendant. A certified copy of the order is filed in the prothonotary's office and the order thereupon becomes a judgment upon which executions may be issued from time to time. The defendant is not entitled to the benefit of any exemption laws, and his wages may be attached.

Whether the reputed father is further liable for support of the child under the Non-Support Act of 1867, after conviction under the Bastardy Law, is a question not yet satisfactorily decided by the courts. There are reasons for holding that the court has jurisdiction and can make an order in such a case.

If, however, the parents of an illegitimate child marry at any time, no matter how long after the birth of the child, such child thereby becomes "legitimated," under the Act of May 14, 1857, P. L. 507 (Marriage 11), and shall enjoy all the rights and privileges as if born in lawful wedlock.

6. SUPPORT BY ORDER OF THE JUVENILE COURT.

Section four of the Juvenile Court Act of 1903, as amended by the Act of June 15, 1911, P. L. 959, empowers the judge hearing a case in

Juvenile Court (now held by the Municipal Court in Philadelphia) "to make an order upon the parent or parents of any such child to contribute to the support of the child such sum as the court may determine." It is further provided that such cases may be referred to desertion probation officers and the orders enforced in the same way as orders made under the Act of 1867 (See 1, above) are or may be enforced. This includes the power to enforce the order under the Act of June 12, 1913, P. L. 502, by imprisoning the parent at hard labor and paying the wages of sixty-five cents a day toward the child's support.

By the Act of July 12, 1913, P. L. 711, exclusive jurisdiction of Juvenile Court cases in Philadelphia County is vested in the Municipal Court, which also has exclusive jurisdiction of non-support cases.

7. WHERE THE COUNTY HAS SUPPORTED, UNDER AN ORDER OF COURT.

The Act of May 31, 1907, P. L. 331 (Juveniles, 11a), provides that whenever any indigent or dependent child shall be committed by any judge "or other competent authority" to the care of any person or family, the expenses and cost of maintenance (not exceeding the cost in the house of refuge or other public institution of such county) shall be paid by the proper county. "Provided, however, That if at any time the parents or other relatives of such child shall become able to pay such costs, or to refund the money already paid, the said county may apply for and obtain an order for the payment thereof, and enforce the same, in the same court, and in the same manner as is or may be provided by law for compelling the maintenance and support of deserted wives and children."

This act gives the county the right in such cases to sue the parents not only for future support but also for past support in the method provided by the Act of 1867, above.

The Act of May 8, 1913, P. L. 177, provides that a county which has been ordered by court to pay the maintenance of any child to any person or society shall be liable to such person or society; and the county shall have full recourse to recover such payments from the persons or poor districts properly charged therewith under the law.

8. GRANDPARENTS AND GRANDCHILDREN.

The Act of April 6, 1905, § 4, P. L. 112 (Desertion 2), is in practically the same words as the Act of June 13, 1836, § 28, P. L. 539, except that grandparents and grandchildren are not included in the Act of 1905, but only the husband, the wife, the father, the mother and the children "of every poor person" are specified. It is thought by some that the Act of 1905 repeals by implication the Act of 1836, but as support from all the persons specified in the Act of 1905 (except from a wife for her husband, and also except from parents for their children of full age, both of which are relatively unimportant) may be more efficiently obtained under other laws, it would be unfortunate if there were such a repeal. The Act of 1905 does not in terms repeal the Act of 1836; but it is only "by implication," if at all. There is nothing inconsistent in the two laws,

and they can well stand together. Assuming that the Act of 1836 is still in force, it will be explained in the light of the decisions construing it, all of which apply also to the Act of 1905, except those involving grandparents and grandchildren.

The Act of June 13, 1836, § 28, P. L. 539, provides that "the father and grandfather, and the mother and grandmother, and the children and grandchildren, of every poor person not able to work, shall, at their own charge, being of sufficient ability, relieve and maintain such poor person, at such rate as the court of quarter sessions of the county where such poor person resides shall order and direct, on pain of forfeiting a sum not exceeding $20 for every month they shall fail therein, which shall be levied by the process of the said court, and applied to the relief and maintenance of such poor person."

By the Act of April 15, 1857, P. L. 191 (Desertion 9), courts of quarter sessions shall make orders "either upon the petition of the overseers of the poor, or of any other person or persons having an interest in the support of said poor person or persons, and either with or without an order of relief having been first obtained."

Under this act it has been held, among other things, as follows:

A grandson is liable, even if there are sons and other grandsons who do not contribute. Hadsall's Case (1884), 3 Kulp. 129.

A grandparent is not liable for the support of an illegitimate grandchild. Poor Directors v. Hickman (1895)), 4 D. R. 494.

A petition need only aver that the defendant is "of sufficient ability," etc., in the words of the act; the property and income of the defendant need not be set out. Overseers v. Knisely (1901), 17 Pa. Super. Ct. 415.

"We define 'sufficient ability' to be the power of rendering adequate support of the pauper after supporting himself and family, and paying his taxes." Overseers v. Krickbaum, (1879), 8 Luz. L. R. 127.

The words of the act presupposes some estate in the defendant, and not a condition of support by daily manual labor. Comm. v. Miller (1890), 8 Pa. C. C. 525.

The petitioners must allege and prove an "interest" in the support of the poor person. But "the act is silent as to the kind or extent of the interest." James's Case (1887), 116 Pa. 152.

The poor person himself may petition, as he has an "interest." O'Connor's Appeal (1883), 104 Pa. 437.

The court may make orders for past as well as future maintenance. Poor Dir. v. Schultz (1885), 2 Del. Co. 429; Poor Dist. v. Hufford (1896), 8 Kulp. 202.

The court can order funeral expenses to be paid under this act. Robert's Est. (1887), 2 Pa. C. C. 647.

The court may make orders against several persons liable according to their ability, and may refuse the petition as to others. Hadsall's Case (1884), 3 Kulp. 129.

The act does not authorize the Court to require security. Dierkes v. Phila. (1880), 93 Pa. 270.

A father is liable for support of his son over 21 years of age, who becomes unable through sickness to support himself. Comm. v. Ulrick (1905), 14 D. R. 713.

It is no defense for one who has ample property that the poor person used improper and slanderous language concerning him. Comm. v. Redman (1905), 18 York 163.

The court cannot make an order exceeding $20 a month. Comm. v. Ulrick (1905), 14 D. R. 713.

There can be no warrant of arrest or binding over to answer to the criminal court; the proper procedure is by petition and answer. Comm. v. Spaar (1899), 8 D. R. 380, 22 Pa. C. C. 406.

There is no common law liability for the support of relatives, and the only relatives who can be held liable are those enumerated in the Act of 1836, § 28. Hence a brother is not liable for the support of his sister. Comm. v. Neese (1906), 15 D. R. 87.

An order may be made for past maintenance; but no order may be made for costs or counsel fees. Overseers v. Schrawder (1905), 31 Pa. C. C. 546.

Several other cases hold that there can be no imprisonment under these acts, but they are probably now obsolete. The Act of June 15, 1911, P. L. 973, provides that where such an order has not been complied with for thirty days, the court may issue an attachment, and, if it appears that the defendant has wilfully neglected to obey the order, may adjudge him in contempt and sentence him to jail for six months.

9. CIVIL SUIT FOR MAINTENANCE.

Under the Act of May 23, 1907, P. L. 227, as amended by the Act of April 27, 1909, P. L. 182, and the Act of July 21, 1913, P. L. 867, a deserted wife may sue her husband, at law or in equity, for maintenance, and if his whereabouts are unknown she may proceed against his proprty, and the court may direct a seizure and sale, or mortgage, of sufficient of the same to provide the necessary funds for such maintenance, and service shall be made by advertisement in the usual way in equity proceedings involving property within the court's jurisdition.

The intent of this law is good, but its wording is defective, making its exact meaning ambiguous. This uncertainty has been increased, rather than diminished, by several court decisions. The intent of the law undoubtedly was that suits could be brought, and if personal service could not be had, then service by publication could be substituted, and the decree of support could be enforced by the seizure and sale of any property. But the courts have held that the act provides for two distinct methods, one by suit enforceable by ordinary writ of execution against property as well as a proceeding for contempt against the husband's person, if the case is in equity, and the other in those cases where the whereabouts of the husband is unknown by suit against the property and asking for its seizure and sale. See the case of Erdner v. Erdner (1912), 234 Pa. 500.

The same case also throws restrictions around the power of the court to appoint a receiver to take charge of the husband's property as a means of enforcing the decree.

It is certain that a wife, and probably children also, should have a right of action civilly for maintenance, but the above act is unsatisfactory

and should be replaced with a more carefully drawn one, which should be fuller and more explicit and comprehensive in its provisions.

10. AT COMMON LAW.

At common law it is the primary duty of a husband to support his wife and children. But as a wife could not sue her husband and children could not sue anybody, except by next friend or guardian, the common law provides no means of enforcing the duty directly. When, however, a wife or children purchased necessaries from a third person, the common law allowed the third person to sue the husband for their value and to collect his judgment out of the husband's property.

This right, however, was confined to "necessaries," and the third person had to take his chances of proving that the articles furnished were really "necessaries" in accordance with the means and ability of the husband. He also had to take his chances of being able to find property out of which to collect even after he got his judgment.

The usefulness of this remedy was, therefore, greatly restricted; but it is nevertheless frequently used and in many cases is very valuable.

11. MISCELLANEOUS PROVISIONS OF THE POOR LAW.

(1) The principal sections of the Poor Law that apply to desertion cases are found in the Act of June 13, 1836, P. L. 539 (Desertion 6, 7 and 8), being sections 29, 30 and 31 of that act. It is there provided that if any husband shall desert his wife or any parent shall desert his or her children, leaving them a charge upon the district, the overseers of the poor may make complaint before any two magistrates (in Philadelphia by the Act of April 14, 1853, P. L. 418, one magistrate) and the latter may issue their warrant authorizing the overseers to take and seize so much of the personal property and rents of the deserter as the magistrates shall think sufficient; but if sufficient property cannot be found, then to arrest the defendant and bring him or her before them or one of them at a time specified. At that time the magistrate may require bail for the defendant's appearance in the court of quarter sessions, and in default thereof to commit the defendant to jail.

The court of quarter sessions may then make an order of support and authorize the overseers to sell the property seized, or collect the rents, and apply the proceeds to the support of the deserted wife or children. If there is no property, then security may be required, and the defendant committed to jail in default thereof.

Until the Act of 1867, this was the usual desertion law in Pennsylvania. Proceedings under it had to be begun by the overseers of the poor, and, except in Philadelphia, before two magistrates. These features, with the further one requiring proof of no property before an arrest could be made, made the law very cumbersome in practice, so that its use was largely discontinued after the Act of 1867 was passed. It is still occasionally used by overseers of the poor in order to seize property of the defendant. But when an arrest is desired, the newer act is generally used.

This law is practically the only one applicable to one class of cases, namely, the support of a child by the mother, both legitimate and illegitimate. When such a proceeding is desirable, the case must be brought to the attention of the poor authorities and proceedings brought in their name.

(2) The Act of March 29, 1803, 4 Smith's Laws 65 (Desertion 1), which applies to Philadelphia only, makes the father and grandfather, the mother and grandmother and the children and grandchildren of every poor, old, blind, lame or impotent person liable for such person's support to the extent of seven dollars a month, orders to be made by the mayor's court or the court of Quarter Sessions.

(3) The Act of March 31, 1812, 5 Smith's Laws 392, § 5 (Desertion 4), makes every husband in Philadelphia who receives property from his wife liable for the support of some of her relatives, including her father and grandfather, mother and grandmother and children and grandchildren, to the extent of seven dollars a month.

As a husband does not receive any of his wife's property since the passage of the married women's property acts, until after her death, this law is largely obsolete, but probably is still in force in cases where the wife has died leaving property held by the husband.

(4) Under § 6 of the same act (Desertion 5), applying to Philadelphia, the property of any husband deserting his wife or any parent deserting his or her child can be seized, under court order, by the guardians of the poor and applied to the support of the deserted wife or child. In case there is no property, the husband or parent may be arrested and forced to give bond to pay such support as the court may order.

The Supreme Court has held that these provisions, applying to Philadelphia only, were not repealed by the general poor law Act of 1836, above given, but that they are still in force.

For the City of Pittsburgh, the special Act of April 11, 1848, P. L. 532, empowers the guardians of the poor (whose powers are now vested in the Department of Charities) to issue a warrant in their own name, on complaint of any citizen, directing the sheriff or any constable to take and seize so much of the goods and chattels, and receive so much of the rents and profits of the real estate of any man who shall separate himsef from his wife without reasonable cause, or of any man or woman who shall desert his or her children, leaving them a charge on the city as shall be sufficient to provide for such wife or children, which sum shall be specified in the warrant. The act further provides that if sufficient real or personal estate cannot be found, then the body of such man or woman shall be taken, and he or she shall be brought before the guardians at a time to be specified. The guardians are then authorized to proceed in the same manner as magistrates may proceed under the Act of June 13, 1836, P. L. 539 (Desertion 6, 7 and 8), as above given.

CHAPTER IV.

POOR LAW.

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1. STATE BOARD OF PUBLIC CHARITIES.

The State Board of Public Charities was established by the Act of April 24, 1869, P. L. 90 (Poor 1 to 19), which act has been supplemented and amended from time to time, especially by the Act of May 1, 1913, P. L. 149. The Board of Public Charities consists of five commissioners and one general agent and secretary, who is paid $5,000 a year, the commissioners receiving no salary, but only necessary expenses. It is the duty of the general agent and secretary to visit all charitable, penal, reformatory and correctional institutions in the State and make an annual report of the work of the Board.

The Board has full power to look into and examine the condition of all charitable, reformatory or correctional institutions within the State, financially and otherwise; to inquire and examine into their methods of instruction, the government and management of their inmates, the official conduct of trusteees, directors, and other officers and employees of the same; the condition of the buildings, grounds, and other property connected therewith, and into all other matters pertaining to their usefulness and good management. To this end they shall have free access to all institutions and may employ such experts, clerks, stenographers and other employees of all kinds as their business may require.

Whenever the Board finds a condition existing in any jail, prison, penitentiary or almshouse which is unlawful or detrimental to the proper maintenance, discipline and hygienic condition of the such institution, or the proper care of its inmates, the Board has power to give notice to the proper officer to correct such condition within ninety days; and if proper effort is not made, the facts are to be certified to the district attorney, whose duty it shall be thereupon to proceed, by indictment or otherwise, to remedy said objectionable condition.

All institutions receiving State aid are to be visited once a year, and a report of their work is to be published, together with recommendations. The Board may prescribe to such institutions a method of keeping their

books, and shall not recommend State aid to any institution which does not adopt said system.

Under the Act of May 7, 1874, P. L. 119 (Poor 16), the Board could appoint three persons in each county to act as visitors to the institutions of that county. This act has become obsolete since the Act of June 6, 1913, P. L. 452, relating to the apportionment of visitors by the courts of common pleas in each county. See "Visitors to Institutions," infra.

2. VISITORS TO INSTITUTIONS.

Under the Act of February 26, 1903, P. L. 8 (Juveniles 134), as amended by the Act of June 6, 1913, P. L. 452, it is the duty of the court of common pleas of each county to appoint a Board of Visitors of six or more persons, without compensation, except necessary expenses, whose duty it shall be to visit all institutions, societies and associations, within the county, into whose care and custody dependent, neglected or delinquent children shall be committed, and all charitable, reformatory or penal institutions, and all institutions within the county which receive their inmates from more than one county, and are supported or managed, in whole or in part, by the commonwealth, and all institutions within the county which are wholly supported and managed by any city, county, borough, or poor district of the commonwealth.

Such visits are to be made monthly by two members of the board, who shall report to the board. The Board shall make reports to the court on matters pertaining to the welfare of the institutions, particularly the treatment received by the inmates. A copy of such report shall also be submitted by the Board to the persons in charge of the various institutions.

An annual report shall be made to the State Board of Public Charities.

In appointing the Board, the court shall receive nominations from any corporation organized under the laws of the commonwealth for the study and improvement of the conditions of charitable, reformatory or penal institutions; but such nominations shall in no way interfere with the free discretion of the court in making appointments.

The exact extent of the duties of the Board in each county being somewhat obscure under the language of the act, the Attorney-General, in Board of Visitation, 23 D. R. 313, gave an opinion upon the act, principally to the effect that the Board of Visitors were required to visit only those institutions to which either children or adults are *committed* under the provisions of any law of the commonwealth. The Board acts as the agent of courts in such investigations, so its duties are confined to such institutions as receive persons committed by some court. The visits must be made monthly, but if this work is too onerous, then the Court of Common Pleas may increase the number of persons on the Board, or may otherwise regulate the manner of the performance of its duties by the Board.

3. POOR DISTRICTS.

The laws establishing the various poor districts of the commonwealth are in a very unsatisfactory, not to say chaotic condition. Under the Poor Law of March 9, 1771, 1 Sm. L. 332, now mostly repealed or supplied by later laws, every city, borough and township constituted a separate poor district, for which directors or overseers were appointed or elected. From time to time many poor districts were established with different territorial extent by special acts of Assembly, until, in 1874, special legislation was forbidden by the Constitution adopted that year.

Many poor districts built almshouses and other institutions, and when the legislature came to pass general laws establishing poor districts after the Constitution of 1874 was adopted, the districts which had built institutions were excepted from the provisions of the general laws and were continued as separate poor districts under the provisions of the old special laws relating to each.

It is therefore impossible to describe here the territorial make-up of the various poor districts—they range from a large and populous county down to a sparsely settled second class township. They also overlap, some functions being under one board and other functions under another. In the City of Philadelphia there are several distinct poor districts, but the City Department of Health and Charities has absorbed most of the work of all of them. In Allegheny County, the City of Pittsburgh is a separate poor district and the remainder of the county constitutes another.

Beginning in 1876 the Legislature seems to have adopted the policy of making the county the unit in the work of poor relief. By the Acts of May 8, 1876, P. L. 149; May 18, 1878, P. L. 63; June 4, 1879, with their amendments and supplements (see Poor 20 to 95), the various counties were empowered to build and maintain poorhouses, to elect poor house directors and to perform the duties theretofore performed by overseers of the poor, and they were finally created districts "for the purpose of furnishing relief to the poor, destitute and paupers, and giving them employment. Incorporated cities were not affected, and local or general laws under which poorhouses were maintained were not repealed.

4. POOR RELIEF.

Under the Act of June 13, 1836, P. L. 539 (Poor 96 to 105), it is the duty of overseers of the poor to provide relief for all poor persons having a settlement in the district. If able to work, employment is to be provided, either in shops or on the roads. If unable to work, it is the duty of the overseers "to provide him with the necessary means of subsistence."

Persons not having a settlement are to be relieved until they can be removed to their place of settlement.

No person is supposed to receive relief until an order from two magistrates of the county is procured; but this has been repealed as to cities of the third class by the Act of June 14, 1901, P. L. 561 (Poor 102).

Poor children, whose parents are dead, may be bound out as apprentices by the overseeers of the poor, with the approbation and consent of two magistrates.

Under the Act of May 28, 1907, P. L. 285 (Poor 118a), persons who are quarantined shall be considered "poor," and shall be furnished relief.

Under the Act of March 31, 1905, P. L. 92, as amended by the Act of May 7, 1907, P. L. 170 (Poor 108), and supplied by the Act of April 22, 1913, P. L. 111, it is the duty of poor directors to provide medical care (including the Pasteur treatment) to all indigent persons domiciled in the district who may be in danger of hydrophobia from the bite of any animal, and pay for the same out of the poor funds.

Under the Act of June 21, 1911, P. L. 1111, any poor district may build a tuberculosis hospital, on plans to be approved by the State Department of Health.

Under the Act of June 3, 1911, P. L. 649, poor districts may appropriate money to incorporated associations formed for the purpose of assisting, relieving, and giving medical care and attention to the poor, injured or sick, within the respective districts.

Under the Act of June 25, 1913, P. L. 564, the real estate of any pauper is liable for the expenses of his support, maintenance and burial, incurred by any poor district, whether owned at the time such expenses were incurred or acquired thereafter. The directors of the district may sue in an action of assumpsit, and collect as other debts are collected.

5. SETTLEMENT.

The Act of June 13, 1836, P. L. 539, § 1 (Poor, 96), imposes upon the overseers of the poor (who are a body corporate, and can sue and be sued as such) the duty of providing for every poor person within the district, "having a settlement therein," who shall apply to them for relief. Sec. 5 of the same act (Poor 100) requires the overseers to furnish relief to those "not having a settlement therein" until they can be removed to the place of their settlement. The Act of May 1, 1909, P. L. 307, provides that in such case the district furnishing the relief can recover the amount expended from the district of settlement. This last act provides that a settlement may be gained in any district as follows:

1. By an inhabitant thereof "who shall, for himself and on his own account, execute any public office legally placed therein during one whole year."
2. By one who pays taxes for one year.
3. By one who rents real estate of the yearly value of $10 and dwells upon the same for one year and pays the said rent.
4. By one who owns real estate and dwells upon it for one year.
5. By any unmarried person without a child who is hired and works as a servant for one year.
6. A married woman has the same settlement as her husband; but if he has no known settlement, "then she shall be deemed, whether he be living or dead, to be settled in the place where she was last settled before her marriage."
7. An illegitimate child is settled in the place where the mother was legally settled at the time of the birth of such child.

It is fundamental that a child takes the same settlement as its parents, and remains so settled until changed by acts of his own.

A wife's settlement follows that of her husband, even when he deserts her. Central Poor Dist. v. Jenkins Twp. (1897), 4 Pa. Super. Ct. 16. This is true even if the wife was a public charge at the time the husband acquires a new settlement. The new district must assume the support of the wife. Homer Poor Dist. v. Austin Poor Dist. 19 Pa. C. C. 546.

The Act of April 6, 1905, P. L. 112 (Poor 134), provides that a settlement may be gained in any district by any person, married or single, who bona fide comes to inhabit therein and continues to reside there for one year. Persons born in a place, whether legitimate or illegitimate, shall be deemed to be settled there unless the parent having their custody be settled elsewhere; and all children shall follow the settlement of their parent, stepfather or stepmother having their custody until sixteen years old.

6. VAGRANTS.

The Act of June 13, 1836, P. L. 539 (Vagrants 1), being part of the Poor Law, defined Vagrants, and practically the same definitions were embodied in the Act of May 8, 1876, P. L. 154 (Vagrants 2 to 15), relating wholly to vagrants. They are:

1. Persons returning to a poor district from which they have been legally removed, without a certificate from the poor district to which they belong stating that they have a settlement therein.

2. All persons who refuse to do the work allotted to them under the Poor Law.

3. All persons going about from door to door or placing themselves in streets, highways or other roads to beg or gather alms, and all other persons wandering abroad and begging who have no fixed place of residence in the township, ward or borough in which the vagrant is arrested.

4. All persons from other states who have no occupation, no visible means of subsistence and can give no reasonable account of themselves.

Persons coming within these definitions may be arrested and sentenced to labor upon any county farm or on the roads, or in any house of correction, poorhouse, workhouse or jail for not less than thirty days nor more than six months.

Non-resident poor persons may be sent back to where they have a settlement, but may first be put to work and made to earn enough for travelling expenses.

Any person coming within the above description of a vagrant may be arrested by a constable or policeman on complaint, or on his own initiative, and taken before a magistrate, alderman or justice of the peace, who must grant full hearing. If convicted of the offence, he may be summarily sentenced and committed as above, labor being the essence of the sentence. Vagrant's Case, 4 Pa. C. C. 615 (1868). The act, however, also applies when the defendant cannot work, as commitments of blind and armless persons have been held valid in Philadelphia. In those counties which have a workhouse, the Act of June 26, 1895, P. L. 377

(Workhouses 5), provides that committing magistrates shall sentence vagrants to that institution, as well as persons convicted of drunkenness and disorderly conduct. In counties which have a House of Correction, but no workhouse, as Philadelphia, vagrants must be sent there. For second offences, the above Act of 1895 provides that the sentence shall be for twice the period of the first sentence.

Under the case of Com. v. King, 2 Kulp 386, "idle and disorderly persons" may not be committed under the vagrancy laws, but some act of vagrancy as above described must be proved. It is well to note that the concealment of an act of beggary by the pretence of selling some article, or of playing some musical instrument, is of no avail as a defence. Com. v. House of Correction, 18 D. R. 601 (1909). The question of beggary or vagrancy will be gone into fully by the magistrate, so the prosecution should be prepared to prove that the selling or playing is a mere subterfuge, and a cloak to hide an appeal for charity.

Those sentenced as above may appeal to court, the appeal in Philadelphia going either to the Municipal Court or the Court of Quarter Sessions, in Allegheny County to the County Court, and in all other counties to the Court of Quarter Sessions. Or, instead of appealing, the matter can be brought before the court of common pleas by habeas corpus. Com. v. King, 2 Kulp 386. The allowance of the appeal is discretionary. Com. 1. Levine, 36 Super. Ct. 188 (1908). Habeas corpus is a writ of right. Both open the case de novo, as far as the merits of the case are concerned. See the cases just cited, as well as Com. v. Supt. House of Correction, 18 D. R. 601 (1909). In either case, all witnesses must be in court for the hearing.

In case of an appeal, great care should be taken by the prosecution to have the record made up correctly by the magistrate. It should contain the following:

(1) Name and address of defendant.
(2) Date of arrest.
(3) Manner of arrest.
(4) Name of person making arrest.
(5) Charge.
(6) Names and addresses of witnesses who appeared against defendant.
(7) Date of hearing.
(8) Names and addresses of defendant's witnesses.
(9) Statement that defendant and his witnesses were given opportunity to testify.
(10) Brief statement of testimony of each witness, including time and place of offence.
(11) Statement that, after hearing, the magistrate convicted defendant of the offence.
(12) Sentence, and that defendant was present when sentence was imposed.

After hearing the appeal, the order of the court thereon shall be final.

Section five of the above Act of 1876 permits the custodian or custodians of such vagrant at discretion to discharge him at any time

within the term of commitment upon not less than ten days' good behavior, or upon satisfactory security that he shall not become a charge upon the public within one year from the date of such discharge. In Philadelphia the practice is for the Director of Public Safety to exercise discretionary power as to the discharge of vagrants from the House of Correction.

In counties where there is no workhouse or House of Correction, the eighth section of the Act declares all poorhouses, almshouses and other places provided for the keeping of the poor to be workhouses for purposes of the Vagrancy Act, and makes it the duty of the custodians to provide work for vagrants and to compel them to work therein, when able, not less than six hours per day.

Upon his discharge, the vagrant may demand a certificate of discharge which shall exempt him from any further arrest for vagrancy for a period of five days upon condition that he shall forthwith leave the county wherein confined, and the custodian is authorized, in his discretion, to give to such vagrant a reasonable sum of money out of his earnings, or out of the treasury of the township, borough, city or county to defray his expenses in leaving the county as aforesaid.

In Philadelphia, by Act of June 13, 1883, P. L. 100 (Vagrants 16 to 18), persons giving shelter in wayfarer's lodges, who refuse to work as pay therefor, may be punished as vagrants by not more than thirty days' commitment.

TRAMP ACT.

The Act of April 30, 1879, P. L. 33 (Vagrants 20 to 25), known as the Tramp Act, defines a tramp as "any person going about from place to place begging, asking or subsisting upon charity, and for the purpose of acquiring money or a living, and who shall have no fixed place of residence, or lawful occupation in the county or city in which he shall be arrested."

Any person coming within this definition is guilty of a misdemeanor and may be sentenced to imprisonment by separate and solitary confinement at labor, in the county jail or workhouse, for not more than twelve months. If the defendant can prove, either before the magistrate, or in court, that all of the above requirements are not fulfilled in his case, he shall be discharged. Com. v. Gill, 10 W. N. C. 557 (1879). He may also be released upon writ of habeas corpus.

However, any act of beggary or vagrancy by such a person is prima facie evidence of guilt under the act.

This act in no way repeals the Vagrancy Act of 1876. Cumberland Co. v. Boyd, 113 Pa. 32 (1886).

This Act does not provide for a summary conviction, but is punitive, and the accused is entitled to Grand Jury indictment and jury trial. It must not be confused with the above vagrancy law.

Under section two of this act the period of imprisonment is increased to three years under certain contingencies, as follows:

(1) If the tramp "shall enter any dwelling house, against the will or without the permission of the owner or occupant thereof."

(2) If he shall kindle any fire in the highway or on the land of another without his consent.

(3) If he shall be found carrying firearms or other dangerous weapon.

(4) If he shall do or threaten to do any injury not amounting to a felony to any person, or to the real or personal estate of another.

This act does not apply to any female or minor under sixteen, nor to any blind, deaf or dumb person, nor to any maimed or crippled person who is unable to perform manual labor. These classes can all be prosecuted under the general Vagrancy Act of 1876, above considered.

7. BURIAL OF PAUPERS.

Under the general Poor Law Amendment Act of June 13, 1836, P. L. 539, § 1 (Poor 96), which provides that the overseers of every district shall provide for every poor person having a settlement within the district, it has been held in the case of Directors of the Poor v. Wallace, 8 W. & S. 94, that the overseers are authorized and required to pay the funeral expenses of a destitute person.

In those counties in which a poor or almshouse is not maintained at county expense, the Act of March 6, 1903, P. L. 18 (Poor 106), provides that the overseers of the several poor districts furnish all needy, sick and injured indigent persons with necessary support and, in case of death, burial, whether such indigent persons have a legal settlement in the poor district or not. If such indigent persons have no known legal settlement, the expenses shall be borne by the county instead of the poor district.

In those counties in which a poor or almshouse is maintained at county expense, the Act of April 20, 1911, P. L. 66, as amended by the Act of May 23, 1913, P. L. 305, provides that the poor directors in such counties shall provide for the burial of indigent persons who shall die in the county at an expense not exceeding $35.

Neither of these acts repeal or modify the provisions of the Act of 1883 establishing the Anatomical Board for the distribution of unclaimed human bodies for scientific purposes, the provisions of which act are hereinafter set forth. It is provided, however, that any relative by blood or marriage to the deceased may have the body if they will bury it without expense to the county.

Under the Act of May 13, 1885, P. L. 17, as amended by the Act of March 27, 1903, P. L. 103 (Poor 168 to 171), it is the duty of the county commissioners to appoint persons in each township and ward to give decent burial to the body of any honorably discharged soldier, sailor or marine who served in the army or navy of the United States during the Rebellion or any preceding war, and who shall die leaving insufficient means to defray burial expenses. Such burial shall not take place in a cemetery or burial ground used exclusively for the burial of the pauper dead. The expense thereof, not exceeding $50, shall be paid by the county; and an appropriate headstone shall be furnished at an additional expense not exceeding $15.

Under the Act of June 13, 1883, P. L. 119, as amended by the Act of April 29, 1897, P. L. 36 (Dead Human Bodies 1 to 8), the professors of anatomy and surgery of the various medical and dental schools in the Commonwealth are constituted a board, known as the Anatomical Board, for the distribution and delivery of dead human bodies to the various schools, colleges, physicians and surgeons needing them for the promotion of medical science within the state. This board is authorized to establish necessary rules and regulations regarding such distribution.

All public officers of any place in the state, and all officers of public institutions, having charge of dead human bodies required by law to be buried at public expense, are required by the act to notify the said board, or person named by it for the purpose in each locality, of the death of any such person. The dead body may then be taken by the agents of the board, provided a bond has been filed in the Prothonotary's Office by the school or individual to whom the body is to go, in the sum of $1,000, that the body will be used for the promotion of medical science within the state. All expenses thereafter incurred, whether for transportation or burial, shall be paid by such school or individuals and the public shall be at no further expense in the matter.

This act is mandatory upon the official in charge of the dead body, but contains an exception in the case where "any person claiming to be and satisfying the authorities in charge of said body that he or she is of kindred or is related by marriage to the deceased, shall claim the said body for burial," in which case it shall be surrendered. The board of distribution, however, is not forced to accept such bodies, in which case they must be buried at public expense.

The act does not apply if the deceased person was a traveler who died suddenly, in which case the body is to be buried without notifying the board.

CHAPTER V.

MENTAL DEFECTIVES.

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1. CONFINEMENT OF INSANE WITHOUT COURT ACTION.

Insane persons may be placed in either public or private hospitals where insane are detained without any court action whatever, under the Act of April 20, 1869, P. L. 20 (Lunatic Asylums, 119 et seq.), as modified and supplemented by the Act of May 8, 1883, P. L. 21 (Lunatic Asylums 103 et seq.). Under these Acts the legal guardians, relatives or friends may place an insane person in detention, but not without "a certificate signed by at least two physicians, resident in this commonwealth, who have been actually in the practice of medicine for at least five years, both of whom shall certify that they have examined separately the person alleged to be insane, and after such examination had do verily believe that the person is insane, and that the disease is of a character which, in their opinion, requires that the person should be placed in a hospital or other establishment where the insane are detained for care and treatment, and that they are not related by blood or marriage to the person alleged to be insane, nor in any way connected as a medical attendant, or otherwise, with the hospital or other establishment in which it is proposed to place such person." This certificate must be made "within one week of the examination of the patient, and within two weeks of the time of admission of the patient, and shall be duly sworn to or affirmed before a judge or magistrate of this commonwealth, and of the county where such person has been examined, who shall certify to the genuineness of the signatures, and to the standing and good repute of the signers."

The guardian, relative or friend must, by writing signed, state that the person has been removed, and is to be detained at his or her request, under the belief that such detention is necessary for the benefit of the insane person, and must also furnish a signed statement of the following facts:

1. Name of insane person.
2. Age.
3. Residence for the past year, or as much as is known.

4. Occupation, trade or employment.
5. Parents, if living.
6. Husband or wife.
7. Children.
8. Brothers and sisters, and the residence of each of these persons.
9. If not more than one of these classes is known, the names and residences of such of the next degree of relatives as are known.
10. Statement of how long insantity has been supposed to exist, and the circumstances that induce the belief that insanity exists.
11. Names and addresses of all medical attendants of the patient during the last two years.

The medical attendant of the place of detention must examine the patient within twenty-four hours, and record the results. He must also tell the patient that he or she may communicate with any persons, two of whom "shall be permitted to have a full and unrestrained interview with the patient." If detention is not necessary, the person placing the patient shall be notified, and must remove the patient within seven days, or he will be discharged.

Where the procedure above outlined is followed in good faith, and a person is detained even though sane, there is no action for damages. Hindman v. Hutchinson, 47 Pitts. L. J. 422. If a physician actually believes a sane person is insane, and so certifies, he is not guilty of negligence. Williams v. Le Bar, 141 Pa. 149. But where a sane person is so imprisoned from a corrupt motive, all persons involved in the conspiracy are not only liable in a civil action for damages, but also for criminal conspiracy under the Act of March 31, 1860, P. L. 382, § 128 (Crimes 68).

The fact of insanity in such cases may always be inquired into by the court in habeas corpus proceedings, which may be sued out by any person; and the burden of proving insanity is then upon the person who placed the patient in detention.

The procedure outlined is very summary and is intended for extreme cases where the public peace, or morals or the interest of the patient requires it. Com. v. Kirkbride, 2 Brewst. 400. Where it is necessary to use it, it should be followed by some kind of court action, either under the same acts, where a procedure by means of a commission of three is provided (Lunatic Asylums 124), or under one of the various acts applying to different State hospitals or institutions (Lunatic Asylums 17, relating to the Pennsylvania State Lunatic Hospital; 23 to 27, relating to the Western Pennsylvania Hospital; 58, relating to the Hospital for Southeastern Pennsylvania, or under the general Act of June 13, 1836, P. L. 589 (Lunatics and Habitual Drunkards 1 et seq.) relating to the appointment by the Common Pleas Court of a committee to care for the person or estate of insane persons and habitual drunkards.)

Under section 33 of the above Act of 1883 (Lunatic Asylums 116), the Committee on Lunacy of the Board of Public Charities may order and compel the discharge, at any time, of any person detained as insane (other than a person committed after trial and conviction for crime, or by order of court). But notice of such action shall first be given the

asylum and the person at whose instance the person is detained, so that they may have an opportunity to justify a further detention.

Under the Act of May 10, 1893, P. L. 39 (Lunatic Asylums 117), persons may voluntarily consent to their own detention for a period of one month, which period may be extended an additional month. The agreement for this purpose must be in writing and signed in the presence of some adult person as friend of the applicant, and also in the presence of the medical attendant, and also by him.

2. CONFINEMENT OF HABITUAL USERS OF ALCOHOL OR DRUGS.

The Act of 1869, above, and its supplement of 1883 apply to "insane persons," but not, in terms, to habitual drunkards, although if habitual drunkenness has continued so long that insanity is caused, they would apply. The Act of April 16, 1903, P. L. 211, was passed to remedy this defect; this act was amended and reenacted by the Act of May 28, 1907, P. L. 288 (Lunatics and Habitual Drunkards 100). Under this act two persons who are closely related or "next friend" of any person so addicted to the use of "alcoholic drink, absinthe, opium, morphine, chloral, or other intoxicating liquor or drug" as to be a proper subject for restraint, care and treatment in a hospital or asylum may petition the court of quarter sessions for such person's commitment, the petition to be accompanied by the affidavits of two physicians. The court then brings the drunkard and all others before it by a warrant, at a time to be fixed, and after hearing may commit the drunkard to an asylum or hospital, arrangements having previously been made with the asylum or hospital for the payment necessary to obtain care and treatment. All such commitments are reviewable by writ of habeas corpus.

3. ARREST OF INSANE FOR CRIME.

The Crimes Act of March 31, 1860, P. L. 427 (Lunatics and Habitual Drunkards 81 to 85) contains several sections relating to the insane when arrested for crime. By section 66, when the jury declares that they find a person not guilty on the ground of insanity, the court may order the defendant "to be kept in strict custody, in such place and in such manner as to the said court shall seem fit, at the expense of the county in which the trial is had, so long as such person shall continue to be of unsound mind." By section 67, the defendant's mental condition may be inquired into at the time of trial by a jury called for the purpose, and if found insane he may be committed as aforesaid. By section 68 where a defendant is about to be discharged for want of prosecution, the judge may order an inquiry into his insanity, and on a presentment of the grand jury he may be tried as aforesaid, and if found insane by the jury the judge may proceed as aforesaid. The expenses of maintenance in the asylum or hospital are placed first upon the county in such cases as these, but the property of the insane person is liable for said costs to the county (section 70), and if there is no property then the poor law settlement of the insane person is liable.

The Act of May 14, 1874, P. L. 160 (Lunatics and Habitual Drunkards 86 to 90), empowers the court, when any person is imprisoned, charged with a crime, either before or after conviction, or after acquittal on the ground of insanity, to commit such person to any proper hospital for the insane, after written application by the officers of the prison or by the general agent of the Board of Public Charities and report by a commission of three that the prisoner is of unsound mind and unfit for prison discipline. Upon the recovery of such person and certification of such fact to the court, the latter may remand him to prison for the remainder of his term, or for trial, as the case may be; and if the term of imprisonment has expired, or the crime was committed while insane, then the court may order his discharge from detention. If the term of imprisonment expires while the prisoner is still insane and uncured, the court, upon the application of relatives or friends and the giving of proper surety, may discharge such prisoner from the hospital and into the guardianship and control of the person applying therefor.

Under the Act of June 26, 1895, P. L. 388 (Lunatics and Habitual Drunkards 91), when any person is charged with a crime less than felony and committed to jail by the magistrate, the county commissioners, upon the certificate of two physicians of five years' practice, that such person is insane, may, with the approval of the court, remove such indigent insane person to the proper hospital for the insane.

4. MENTAL DEFECTIVES UNDER THE POOR LAW.

Under the Act of April 14, 1845, P. L. 440, § 12 (Lunatic Asylums 13), the Poor Law authorities have the authority to place any poor person in an asylum whom they deem insane. This right extends to the Court, so that where a poor person comes before the court in surety of the peace proceedings (where there is no jury), the court may inquire in a summary way into the question of insanity, and may order him confined at the expense of the poor district. Davidson Township's Appeal, 68 Pa. 312.

Under the Act of June 13, 1883, P. L. 111, § 1 (Juveniles 19), the Poor Law authorities may retain in almshouses children who are unteachable idiots, epileptics or paralytics, or otherwise so disabled or deformed as to be incapable of labor or service. Other children between two and sixteen cannot lawfully be retained more than sixty days.

5. GENERAL ACT RELATING TO LUNATICS.

Under the Act of June 13, 1836, P. L. 589, containing 68 sections, and being the general act (see Lunatics and Habitual Drunkards 1 to 94), the Court of Common Pleas may inquire into the mental condition of any person, and appoint a committee, either of the person or of the estate, to look after the interests of the lunatic. The committee of the estate has the management of the lunatic's estate "and shall, from time to time, apply so much of the income thereof as shall be necessary to the payment of his just debts and engagements, and the support and maintenance of such person, and of his family, and for the education of his minor

children." If the income is not sufficient, the court may authorize him to apply so much of the principal as shall be necessary. In general, the committee exercises the same control over the property of the lunatic that a guardian appointed by the Orphans' Court exercises over the property of the ward.

Under the Act of June 15, 1897, P. L. 162 (Lunatics and Habitual Drunkards 92), which amends section 63 of the Act of 1836, above, a person so declared a lunatic may apply for his discharge and may have a trial of the fact by a jury if he so desires, but the burden is on him to prove that he has regained his reason. If that fact is proved to the satisfaction of the jury or of the court, then the committee will be discharged and the person set at iberty if he had been confined.

6. WEAK-MINDED PERSONS AND EPILEPTICS.

Where a person's mental defectiveness does not go to the extent of lunacy, but the person is "feeble-minded or epileptic or so mentally defective that he or she is unable to take care of his or her property, and in consequence thereof is liable to dissipate or lose the same, and to become the victim of designing persons," the Act of May 28, 1907, P. L. 292 (Lunatics and Habitual Drunkards 105 to 113), makes it lawful for "either the mother, father, brother, sister, husband, wife, child, next of kin, creditor, or, in the absence of such person or persons, or their inability, any other person" to petition the court of common pleas to appoint a guardian for the estate of such person.

The courts have held that this act does not replace the general lunacy act of 1836, but that the law recognizes a difference between a violently insane person and a weak-minded one. The act is for the protection of the weak-minded person, and not to be used by the relatives of a sane person to prevent him doing what he pleases with his property. Bryden's Estate, 211 Pa. 633.

The court fixes a day for a hearing and directs notice to be given to the alleged weak-minded person and to the members of his family. At the hearing the weak-minded person must attend if that is possible with safety to himself, and all parties may present such testimony as they care to regarding the ability or inability of the person to care for his property. The statute contains no requirements as to the testimony of physicians, and they may or may not be present at the option of the persons interested. The alleged weak-minded person has the right to have a jury trial, if he so desires.

If the court, after such hearing, decree the person to be weak-minded, said person cannot make any gift or contract, and entry of the decree is notice to the world. The court then appoints a guardian, who has the same powers and duties as a committee in lunacy. Under section 14 of the Lunacy Act of June 13, 1836, P. L. 589 (Lunatics and Habitual Drunkards 26), the court may commit the custody and care of the person or estate, or both, of the lunatic to the person appointed committee. It is therefore a fair inference that the guardian of a weak-minded person has custody of the person of the ward, as well as custody of the estate.

Under the act the court has full power over the person's property, and may direct the sale, mortgage, lease or conveyance upon ground-rent of the real estate "whenever in the opinion of the court it is necessary for the support and maintenance of the said ward or his family, or the education of his or her minor children, or the payment of his or her debts."

When the person recovers his mind, the court, after hearing, will so decree, and will discharge the guardian and turn his property back to such person.

7. SUPERVISION AND CONTROL OF INSANE ASYLUMS.

Under the Act of May 8, 1883, P. L. 21 (Lunatic Asylums 136 et seq.), the State Board of Charities has supervision over all houses or places where insane persons are detained, and may make rules and regulations for their government and control, including the granting of licenses to do such work. Keeping such a place without a license or violating any regulation is a misdemeanor; and damages may also be sued for in a civil action. The act also fully protects the right of any insane person to consult his attorney.

Under the Act of June 9, 1911, P. L. 855, as amended by the Act of May 1, 1913, P. L. 148, any hospital in which courses of lectures on mental diseases, open to medical students, are maintained, may maintain, subject to the consent and approval of the Board of Public Charities, a psychopathic ward for the treatment of persons suffering with mental disorders. Commitments are made in the usual way, and courts may send any person charged with crime to such wards for observation and diagnosis. For the care of indigent persons in such wards, the State pays $2 per day. The hospital must report to the Board of Public Charities in the same way as State Hospitals for the Insane must report.

8. STATE INSTITUTIONS FOR MENTAL DEFECTIVES.

(1) The Pennsylvania State Lunatic Hospital, at Harrisburg, was erected under the Act of April 14, 1845, P. L. 440, and its supplements (Lunatic Asylums 1 to 22), for the admission of the insane patients from the several counties in the ratio of their insane population. Both indigent persons and paying patients may be admitted, the latter under terms fixed by the board of nine trustees appointed by the Governor to manage the hospital. The cost of caring for the indigent person is payable by the city or county sending him, and the city or county may collect from the poor district (if any) and the latter from any relative liable by law for support. Courts may commit persons charged with crime, except the crimes of homicide, arson, rape, robbery or burglary, unless there is reason to believe that a cure may be speedily effected by such committal; if found incurable, such persons are to be sent back to prison.

The indigent insane shall aways have precedence for admission over the rich; and recent cases shall have preference over those of long standing.

(2) The Dixmont Hospital for the Insane was established under the Act of April 22, 1863, P. L. 539 (Lunatic Asylums 23 to 48), as the Western Pennsylvania Hospital, the name being changed in July, 1907, by order of court. Insane persons may be admitted from the following counties: Armstrong, Allegheny, Beaver, Butler, Cambria, Clarion, Clearfield, Crawford, Erie, Elk, Forest, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, McKean, Somerset, Venango, Washington, Warren, Westmoreland and Potter. Under the Act of April 27, 1876, P. L. 47 (Lunatic Asylums 47), no additional paying patients shall be received as long as applications in behalf of indigent insane persons are pending for admission.

The courts of the above counties may commit insane criminals and under section 5, on petition, to inquire summarily into the facts of any case of the intemperate use of intoxicating drinks, and if the person is found to be temporarily insane from such cause, to commit him to the Hospital until cured; provided, that security is given to cover all costs of such care.

Incurable criminals and indigent insane may be returned to the prison or poor authorities, county or city which sent them to the Hospital.

(3) The Hospital for the Insane for Southeastern Pennsylvania, at Norristown, was established under the Act of May 5, 1876, P. L. 121 (Lunatic Asylums 49 to 59), and cares for the insane from Philadelphia, Bucks, Montgomery, Delaware, Chester, Northampton and Lehigh counties. The Hospital is specially devoted to the care of the indigent insane, who have precedence over paying patients. The poor authorities of the respective counties may send such persons as they see fit to pay for; and the courts may commit under the same provisions as those by which they commit to the State Hospital at Harrisburg.

(4) The State Hospital for the Insane at Danville, Pennsylvania, is governed by the Act of March 27, 1873, P. L. 54 (Lunatic Asylums 60 to 65), which extended many sections of the laws relating to the State Lunatic Hospital, at Harrisburg, to the Danville institution, and authorized the removal of patients from Harrisburg to Danville. The Hospital was built to care for the insane from the northern district of the State.

(5) The State Hospital for the Insane at Warren, Pennsylvania, was built under the Act of August 14, 1873, P. L. 1874, page 333, for the insane of the northwestern district, composed of the counties of Erie, Crawford, Mercer, Venango, Warren, McKean, Elk, Forest, Cameron and Clarion. It is governed under the Act of June 8, 1881, P. L. 83 (Lunatic Asylums 66 to 74), under which the poor authorities of the above counties may send indigent insane to the institution and the courts of the commonwealth may commit under existing laws.

(6) The State Asylum for the Chronic Insane, at Wernersville, was built and is managed under the Act of June 22, 1891, P. L. 379 (Lunatic Asylums 75 to 90), the purpose of the asylum being to care for persons who have been insane at least one year. Such persons are sent to the asylum by the Board of Public Charities from the various hospitals, almshouses and poorhouses of the State and the several counties and townships thereof. The trustees are required to equip workshops for

the employment of the largest possible number, to enable them to contribute, to the extent of their ability, to the cost of their maintenance.

(7) The Homœopathic State Hospital for the Insane, at Allentown, is established under the Act of July 18, 1901, P. L. 737 (Lunatic Asylums 91 to 102), amended by the Act of May 10, 1911, P. L. 205, to care for the insane from the counties of Bradford, Bucks, Carbon, Lackawanna, Lehigh, Monroe, Northampton, Pike, Sullivan, Susquehanna, Wayne and Wyoming. The same laws that regulate other state hospitals for the insane are extended to this one, and, after the insane from the above counties are cared for, the Committee on Lunacy of the State Board of Charities may transfer patients to this hospital from other parts of the State. This hospital was opened for use in 1913, after approximately $2,000,000 had been spent for construction.

(8) The State Hospital for the Criminal Insane, at Fairview, Wayne County, was provided for by the Act of May 11, 1905, P. L. 400 (Lunatic Asylums 170 to 182), the said hospital to be used for the treatment and care of the criminal insane, who are given the preference, and such other insane as may be transferred there by the Committee on Lunacy of the Board of Public Charities. The laws relating to other State institutions are extended to this one.

(9) The Western Pennsylvania State Institution for the Feeble-minded, at Polk, Venango County, was established under the Act of June 3, 1893, P. L. 289 (Juveniles 44 to 62), for the care and training of idiotic and feeble-minded children under twenty years of age, and such feeble-minded adults of inoffensive habits as may be legally committed in accordance with the laws relating to the State Hospitals for the Insane. Children are admitted, under rules laid down by the board of trustees, upon application (1) by the father, (2) if father and mother are not living together, by the one having custody of the child, (3) by the guardian, (4) by the superintendent of any county orphanage, or (5) by the person having the management of any other institution or asylum where children are cared for. Under items three, four and five, consent of parents is not required.

(10) The Pennsylvania Training School for Idiotic and Feeble-minded Children, at Elwyn, Delaware County, was incorporated under the Act of April 7, 1853, P. L. 341 (Juveniles 40 to 43), to provide for the "mental, moral and physical education of idiotic and feeble-minded children."

(11) The Eastern Pennsylvania State Institution for the Feeble-minded and Epileptic, at Spring City, Chester County, is established under the Act of May 15, 1903, P. L. 446, which is similar in its terms to the act under which Polk (see (9)) is established. This act was supplemented and amended by the Act of June 9, 1911, P. L. 862, the Act of June 20, 1911, P. L. 1090, and the Act of June 12, 1913, P. L. 494. The latter act limits the territory from which persons can be sent to thirty-four counties in the eastern end of the State, and provides that admission may be obtained only by obtaining a court order committing the patient in the manner therein provided. The procedure is by petition to Quarter Sessions Court, notice to all parties in interest, a hearing, a

physician's certificate, an inquiry by the court into payment of the cost of care by relatives, and an order committing the person and ordering payment of the cost of care, which may be placed on the commonwealth. The costs of the hearing are payable by the county and the court may allow a fee of $5 to the physician and $10 to the attorney, to be paid by the county. The Committee on Lunacy of the Board of Public Charities may transfer patients from any other State institution.

(12) The Pennsylvania Village for Feeble-minded Women, between the ages of sixteen and forty-five, to be located on a portion of the State forest reserves, was provided for by the Act of July 25, 1913, P. L. 1319, and the sum of $40,000 was appropriated for the improvement of the land selected and the construction and furnishing of buildings. Such women may be committed by court in the same way as to Spring City (see (11) above), or they may be sent by any Board of Poor Directors, or transferred by the Committee on Lunacy of the Board of Public Charities from any other State institution.

CHAPTER VI.

PUBLIC HEALTH.

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INTRODUCTION.

The legislation relating to the public health and housing is scattered through many statutes, only a few of which relate to the whole State. In addition, rules and regulations of the State Department of Health and of local boards of health have the force and effect of law. It is manifestly impossible to give all such regulations, but the more important regulations of the Department of Health and of the Philadelphia Department of Health and Charities are given, and in Pittsburgh the rules have largely been embodied in ordinances, which are given, the aim being to make this chapter a workable handbook for the health laws and regulations in the two large cities, leaving the local regulations in other places to be obtained from the local boards of health by those interested.

Only the laws dealing directly with the public health have been included. The motive behind the passage of many other laws (as, for example, building laws, factory laws, water supply and sewerage laws, etc.) is protection of health, but such laws are either beyond the purpose of this handbook or are given elsewhere.

1. STATE DEPARTMENT OF HEALTH.

The State Department of Health is now organized under the Act of April 27, 1905, P. L. 312 (Department of Health 1 to 17), which provides that it shall "consist of a Commissioner of Health and an Advisory Board" of six members, without salary, consisting of at least four physicians who are graduates of a legally constituted medical college

and of at least ten years' experience in practiice, and one member of the Board shall be a civil engineer. Their term is four years. The Commissioner of Health acts as president and has a vote on all matters.

Section five of the above act contains the following: "It shall be the duty of the Advisory Board to advise the Commissioner on such matters as he may bring before it, and to draw up such reasonable orders and regulations as are deemed by said Board necessary for the prevention of disease and for the protection of the lives and health of the people of the State, and for the proper performance of other work of the Department of Health." Copies of these rules and regulations are furnished to all local boards of health, school boards, and clerks of councils of cities and boroughs, and are printed in circular form and given to any one who demands them. Section 16 makes it a misdemeanor punishable by $100 fine or one month's imprisonment, or both, to violate any order or regulation of the Department of Health. Such orders and regulations have therefore the force and effect of law. They may be enforced by any person, in the same way as any other law the violation of which is a misdemeanor, by information before a justice of the peace, magistrate or alderman; and the Commissioner of Health is authorized to issue warrants himself to any sheriff, constable or policeman.

Section eight of the above act makes it the duty of the Commissioner of Health "to protect the health of the people of the State, and to determine and employ the most efficient and practical means for the prevention and suppression of disease." To this end, he and his agents may "without fee or hindrance, enter, examine and survey all grounds, vehicles, apartments, buildings and places within the state." The Commissioner may revoke or modify any order, regulation, by-law or ordinance of a local board of health, concerning a matter which, in his judgment, affects the public health beyond the territory over which such local board has jurisdiction.

In the Department of Health there is organized a Bureau of Vital Statistics, to which is sent by the local health authorities in all parts of the State the certificates of birth and death which are required by the Act of May 1, 1905, P. L. 330 (Department of Health 19 to 43). This very complete collection of vital statistics will become of increasing importance as the period covered becomes longer.

Under the act of July 24, 1913, P. L. 1015, a Bureau of Housing is established as part of the State Department of Health, cities of the first class being, however, excepted from its provisions. It is the duty of said Bureau "to investigate the sanitary conditions of tenement, lodging and boarding houses, and when the same are found, in the opinion of said bureau, to be a menace to those occupying the same, or employed therein, or to be overcrowded, to condemn the same, and to notify the owners or agents thereof in writing, setting forth the unsanitary or overcrowded conditions thereof, and specifying in writing the changes or alterations which shall be made thereto for the purposes of relieving such conditions, and further specifying the time within which such changes or alterations shall be completed or overcrowding relieved." This notice is filed in court and in ten days becomes final unless appealed from, in which case

the court appoints three persons to consider the justice of the notice, and the court makes a final order. If not obeyed, the matter is certified to the District Attorney, whose duty it is to institute prosecution for a misdemeanor. The penalty is a fine of $20 for each day the notice or order is disobeyed, and, in default of payment, imprisonment in the county jail for such period as the court directs, the penalties applying to officers of corporations or members of firms, either as owners or agents.

Under the Act of May 4, 1905, P. L. 385 (Public Waters 1 to 9), creating a water supply commission of which the Commissioner of Health is a member, and the Act of April 22, 1905, P. L. 260 (Public Waters 10 to 24), the Commissioner of Health is given large powers with respect to the waters of the State, the purification of streams, the conservation of water powers, the construction of water works and the control of sewage disposal.

Under the Act of May 14, 1907, P. L. 197 (Department of Health 48a and 48b), the Department of Health is authorized to acquire, build and equip one or more sanatoria for the treatment of indigent persons with tuberculosis, and may use parts of the State forestry reservations for this purpose. The Department has already equipped two such institutions.

The Act of May 14, 1909, P. L. 855, passed at the instance of the State Department of Health, requires the report by physicians of all cases of contagious or infectious diseases, naming them, to the local health authorities, or where there is no board of health, then to the State Department of Health. The list of diseases mentioned does not include venereal diseases, but covers the following:

Actinomycosis.
Anthrax.
Bubonic plague.
Cerebrospinal meningitis (epidemic).
Cerebrospinal fever (spotted fever).
Chicken-pox.
Asiatic cholera.
Diphtheria (diphtheritic croup, menbraneous croup, putrid sore throat).
Epidemic dysentery.
Erysipelas.
German measles.
Glanders (farcy).
Rabies (hydrophobia).
Leprosy.
Malarial fever.
Measles.
Mumps.
Pneumonia (true).
Puerperal fever.
Relapsing fever.
Scarlet fever (scarlatina, scarlet rash).
Smallpox (variola, varioloid).

Tetanus.
Trachoma.
Trichiniasis.
Tuberculosis in any form.
Typhoid fever.
Typhus fever.
Whooping cough.
Yellow fever.

Since the passage of this act, the Department, by regular Rules and Regulations, has included the following diseases within the provisions of the act:

Unciniara duodenalis (hook worm).
Pallagra.
Anterior poliomyelitis (infantile paralysis).
Scabies.
Impetigo-contagiosa.

Under the Act of June 5, 1913, P. L. 443, for the prevention of blindness, ophthalmia neonatorum is now included in this list, to be reported in accordance with that act.

In addition to requiring the report of diseases, the act prescribes a system for the handling of the various diseases above mentioned in the way of quarantine, placarding premises, disinfection, attendance at school, use of public conveyances by diseased persons, burial preparations and funerals, and authorizes local health authorities to establish additional regulations to protect the public health.

Under the Act of May 1, 1913, P. L. 134, the Department of Health is given certain powers in respect to the manufacture of mattresses. No second-hand material which had formerly formed part of mattresses used in a hospital can be used at all, and all other second-hand material must be disinfected and sterilized by processes approved by the Department of Health.

As before stated, the Act of 1905 gives the Department of Health the power to make rules and regulations which have the force of law. Many such rules and regulations that formerly were operative have been embodied in the Act of 1909 relating to contagious diseases, but others are still in force.

One set relates to the precautions to be observed in the sale of milk from premises where diphtheria, scarlet fever, smallpox, typhoid fever or spotted fever exist. It is required that those engaged in the business must be disinfected, together with their clothing, and required to keep out of the infected house until finally disinfected. If these precautions are not observed, the sale of milk must be discontinued, or the business removed elsewhere.

By rules adopted January 23, 1906, the precautions which must be observed in the case of smallpox are set forth in detail.

By other rules adopted the same day, applicable to schools and colleges outside of cities, buildings must be promptly disinfected after the discovery of a case of communicable disease therein. The patient must be taken away to an isolation building, or if this is not possible, then

must be strictly isolated, with the nurse, in a room as remote as possible from other persons.

On January 3, 1913, rules relating to the common drinking cup and common towel were adopted, forbidding the furnishing in public places of such articles, or their use, unless disinfected or washed after each individual use. It is stated that "public places within the meaning of this regulation shall include common carriers, private, public, parochial or Sunday schools, industries, factories, theatres, shops, offices, hotels, etc., etc."

The same rules forbid barbers to use a common brush for brushing the eyes of their patrons unless it be disinfected after each individual use.

The same rules also forbid the use of eating utensils in public eating places which have not been thoroughly cleansed after each individual use.

2. CITIES OF THE FIRST CLASS.

(1) GENERAL HEALTH STATUTES.

The charter act for cities of the first class, being the Act of June 1, 1885, P. L. 37, as amended by the Act of April 8, 1903, P. L. 155 (Cities 132), creates a Department of Public Health and Charities in cities of the first class, under the charge of a director (Cities 173), and to which "shall be confided the care, management, administration, and supervision of the public health, charities, almshouses, hospitals, and all other similar institutions the control or government of which is intrusted to the city."

Under the Act of April 20, 1905, P. L. 228 (Cities 274 to 277), the Department was authorized to make rules and regulations relating to the control of certain contagious diseases, and numerous rules were made under that act, but it is probable that both the act and the rules have been superseded by the general act relating to such diseases, being the Act of May 14, 1909, P. L. 855, referred to under the heading "State Department of Health." Under the latter act the Department has issued a set of rules relating to interments, burial permits and disinfecting premises after a case of contagious disease. There is a penalty for violating any of these rules of $20 to $100, or 10 to 30 days in the county jail.

Under the Act of April 26, 1907, P. L. 123 (Cities 281a to 281f), as amended by the Act of July 25, 1913, P. L. 1042, slaughtering of animals and the sale of meat without a license is forbidden, and the Department is empowered to issue such licenses and to enact rules and regulations governing such matters. Detailed regulations governing slaughter houses, pork packing, meat shops, fish houses and poultry shops have been adopted by the Philadelphia Board of Health, and any unsanitary condition existing in such places should be called to their attention, for that board has full power under the law to remedy the same, either by a fine for violation of the regulations or by revoking the license.

Under the Act of April 27, 1909, P. L. 237, the Bureau of Health has similar powers regarding the sale of milk. It is, however, obligatory upon the Bureau to issue a license upon payment of the fee of $5, but it may be revoked at any time upon five days' notice for failure to

obey the law or the rules and regulations of the Bureau. The Bureau therefore has ample power to enforce sanitary conditions.

Under the Act of May 19, 1897, P. L. 77, (Municipalities 47 to 49), the Board of Health of Philadelphia has adopted rules and regulations governing bone boiling establishments.

Under the Act of June 7, 1911, P. L. 680, providing for the licensing of plumbers and containing the plumbing specifications for first class cities, the Bureau of Health is empowered to make "such rules, regulations and changes in the foregoing specifications relative to the construction of the plumbing or house drainage" as the Bureau may deem necessary or advisable for the protection of health. Under this power the Bureau of Health of Philadelphia has issued a sixty-four page booklet containing such rules and regulations.

Under the Act of July 22, 1913, P. L. 879, the Board of Health has passed rules and regulations relating to the use and regulation of dumps in the City of Philadelphia.

Under the Act of June 25, 1913, P. L. 544, the Board of Health of cities of the first class is empowered to abate nuisances in private alleys after ten days' service of notice upon the owner. If the nuisance is caused by failure to grade or pave, the Board, after notice, may cause the same to be properly done, at the expense of the owner, and may file a lien on the property to cover the expense.

Under the Act of July 25, 1913, P. L. 1041, the Board of Health is empowered to make rules and regulations for the sanitary keeping of all stables within the city, and for the collecting, storing and transporting of manure. No manure may be collected or stored without a permit from the Board or contrary to the terms of such permit or of the regulations. Any violation of the act or of the rules and regulations is punishable by process of summary conviction by a fine of $2 to $5 or by imprisonment of one to five days in default of fine.

(2) TENEMENT AND HOUSING LAWS.

Until the general housing act of July 22, 1913, P. L. 879, was passed, tenement house conditions in Philadelphia were regulated under the Act of June 7, 1907, P. L. 441 (Cities 308a, et seq.), which merely made it the duty of the mayor to grant "tenement-house licenses" each year for tenement houses in which the rules and regulations of the Department of Health and Charities have been complied with. The Act of 1907 was not repealed by the Act of 1913, and is still in force, so that the rules made under that act are still enforceable unless they are in conflict with some provision of the Act of 1913, which very few or none of them are. It is therefore necessary to give an outline of these rules as well as the provisions of the Act of 1913 in order to cover this subject.

The Act of 1907 defines a tenement house as "every building which, or a portion of which, is occupied, or is to be occupied, as a residence by three or more families, living independently of each other, and doing their cooking upon the premises." The Rules and Regulations of the Department are herewith given in full, as follows:

I. *Definitions.*—Buildings not erected for use as a tenement house, but converted or altered to such use, or being now occupied by three or more families, doing their cooking on the premises, shall become subject to all the provisions of these Rules.

1. A basement is a story, partly, but not more than one-half below the level of the curb.

2. A cellar is a story more than one-half below the level of the curb.

3. The term apartment in these Rules shall mean a room or suite of rooms occupied by a single family.

4. A public hall is a hall, corridor or passageway not within an apartment.

II. *Rooms, Lighting of.*—No room in a now existing tenement house shall be occupied for living purposes unless it shall have a window upon the street, or upon a yard not less than four feet deep, or upon a court or shaft of not less than twenty-five feet square in area, open to the sky without roof or skylight; *Provided, however,* that such room may be occupied for living purposes if it has a sash window opening into an adjoining room in the same apartment, which latter room opens directly either on the street, or on a yard of the above dimensions. Said sash window shall be at least three feet by five feet between stop beads, and both halves shall be made so as to readily open. Where it is not possible to construct a window of this width, then such window may be of such size as may be prescribed by the Division of Tenement House Inspection, but such window shall never contain less than fifteen square feet of glazed surface.

III. *Overcrowding.*—No room shall be occupied by such a number of persons that there shall be afforded less than 400 cubic feet of air to each person over twelve years of age, and 200 cubic feet of air to each child under twelve years of age occupying such room.

IV. *Public Halls, Lighting of.*—The public hall or landing at the head of the highest flight of stairs shall be lighted on the same floor or the floor immediately below by a window or windows opening to the outer air, or by a skylight directly over the stairway; *Provided,* that where existing means fully light the hall or landing on the top floor such provision shall be deemed sufficient, and the construction of a window or skylight shall not be required. On the other floors every public hall which is not lighted by a window shall be lighted by light transmitted from the room either by transoms, or by glass in a door, or doors, or in the walls of a room or rooms.

V. *Public Halls, Lighting of at Night.*—Proper lights shall be kept burning at night in public stair-halls, upon the entrance floor and upon the second floor.

VI. *Wall Paper.*—No wall paper shall be placed upon a wall or ceiling of any tenement house, unless all wall paper shall be first removed therefrom, and said wall and ceiling thoroughly cleaned.

VII. *Cellars, Living Purposes.*—No cellar or basement shall be occupied for sleeping purposes, unless all of the following conditions are complied with:

1. Such room shall be at least seven feet high in every part from the floor to the ceiling.

2. The ceiling of such room shall be at least four feet and six inches above the surface of the street or ground outside of or adjoining the same.

3. There shall be appurtenant to such room the use of a separate water closet constructed and arranged as required by Rule XII of these rules.

4. Such room shall have a window or windows opening upon the street or upon a yard or court. The total area of windows of such room shall be at least one-eighth of the superficial area of the room, and one-half of the sash shall be made to open the full width, and the top of each window shall be within six inches of the ceiling.

5. All walls surrounding such room shall be damp-proof.

6. All floors of such room shall be damp-proof and water-proof.

VIII. *Cellars, Ventilation of.*—All cellars and basements in such tenement houses shall be propery lighted and ventilated to the satisfaction of the Division of Tenement House Inspection.

IX. *Cellar Floors.*—All walls below the ground level and all cellar or lower floors shall be damp-proof and water-proof, when in the opinion of the Division of Tenement House Inspection conditions warrant it.

X. *Cellar Walls and Ceilings.*—The cellar walls and ceilings of every tenement house shall be thoroughly whitewashed or painted a light color by the owner, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be required by the Division of Tenement House Inspection.

XI. Water shall be introduced and capable of being drawn in full supply on the first, second and third floors.

XII. *Water-closets.*—There shall be at least one water-closet contained in a separate compartment for each family occupying the premises, except that when there are apartments consisting of only one or two rooms, there shall be not less than one water-closet for each three families occupying such apartment. The construction of such closets shall be in accordance with the Rules and Regulations of the Board of Health governing House Drainage, and the size of each compartment in which such closet is erected shall in no case be less than two feet four inches in width and depth.

XIII. *Enclosure of Water-closets and Sinks.*—No woodwork casing shall enclose the water-closets or sinks. The space under them shall be left open. The floor and wall surface beneath and around such water-closets and sinks shall be maintained in good order and repair, and if of wood shall be kept well painted with light colored paint.

XIV. *Repairs.*—All parts of every house shall be kept in good repair, including the roof, which shall be so designed as to prevent dampness prejudicial to health either within the building or upon the adjacent premises.

XV. *Cleanliness of Buildings and Yards.*—All parts of every house and the yard, courts, passages, areas and alleys connected with or belonging thereto shall be kept clean and free from any accumulation of dirt, filth, garbage or other matter.

XVI. *Drainage of Yards, etc.*—All shafts, courts, areas, alleys and yards of all tenement houses shall be properly paved, graded and drained to the satisfaction of the Division of Tenement House Inspection.

XVII. *Receptacles for Ashes and Garbage.*—The owner of every tenement house shall provide for said building proper and suitable conveniences or receptacles for ashes, rubbish, garbage, refuse and other matter, which shall be so placed on each floor as to be readily accessible to each family occupying apartments on those floors, and shall be of such design and capacity as to permit of their removal daily to be emptied and cleansed.

XVIII. *Animals on Premises.*—No horse, cow, calf, swine, sheep, goat or fowl shall be kept or slaughtered in any tenement house, or on any lot on a part of which said tenement is erected.

XIX. *Prohibited Use.*—No tenement house, or any part of building of which a part may be used for tenement purposes, shall be used for storage or handling of rags or waste.

XX. *Alterations and Repairs.*—No alterations nor additions shall be made to any tenement house, nor shall any house be converted into a tenement house, in the City of Philadelphia, without the plans and specifications for such alterations having been submitted to and approved by both the Bureau of Building Inspection and the Department of Public Health and Charities.

XXI. *Sinks in Rooms.*—One sink supplied with running water shall be provided in every suite of rooms. But in case of apartments which consist of single rooms or two rooms, one sink per two families is sufficient, provided that there is a sink on the first, second and third floors.

The first few sections of the Act of July 22, 1913, P. L. 879, provide for the establishment in the Department of Public Health and Charities of a Division of Housing and Sanitation with jurisdiction "over all matters coming within the provisions of this act, and all laws, ordinances, and the rules and regulations of the Board of Health, in any way affecting or regulating the use, occupancy, sanitation, or maintenance of all buildings, the grounds surrounding same, and all vacant lands mentioned in this act."

The act applies to three "grades" of buildings, as follows: Buildings of the highest or first grade include all "dwellings," as hereafter defined, Buildings of the second grade include all two-family dwellings, as hereafter defined. Buildings of the third and lowest grade include all rooming houses and tenements, as hereafter defined.

A "tenement" is any house or building which, or a portion of which, is occupied as a residence by three or more families, living independently of each other, and doing their cooking on the premises, and having a common right in the halls, stairways, yard, cellar, or water-closets thereof, or some of them; or by two or more families occupying apartments above the first floor, living independently of each other, and having a common right in the halls, stairways, yard, cellar, or water-closets thereof, or some of them.

A "dwelling" is any building not a lodging house under the law (see Miscellaneous Health Laws, infra), and not a tenement, rooming-house or inn, all or any part of which is occupied as the home or residence of

a family, or of two or more families living independently of each other, and having no common right or use in any hall, stairway, cellar, water-closet, or privy; and whether such house is built singly, or as part of a double house, or in conjunction with others in an attached or semi-detached row.

A "two-family dwelling" is any house not a tenement, dwelling, rooming house or inn, and which is occupied by two families, who use a common entrance or hallway.

A "rooming-house" is any house or building, or portion thereof, not a lodging-house, tenement or inn, and in which persons, either as individuals or families, are harbored or received, housed or lodged, for hire or otherwise, for a single day or night or longer period; provided this shall not include a dwelling where less than five persons are so received or lodged, or where more than half the sleeping rooms are used solely by the members of the immediate family owning or leasing and occupying the house, and by their domestic servants.

Section 5 of the act provides that all plans for the construction or alteration of the buildings of any grade must be approved by the Division of Housing and Sanitation.

Section 6, referring to tenements, provides that 20% of the lot area must be open and unobstructed, except a corner lot, in which 10% must be left open, or, where there are streets twenty feet wide on three sides, the building may cover the entire lot if at least one window in each room opens on one of the streets. The open spaces thus provided for shall be at least eight feet wide and light courts at least twelve feet; but these restrictions do not apply to houses occupied as tenements before June 7, 1895, and to such other buildings "as have been listed on the records of the Department of Health and Charities and consecutively occupied as tenements prior to January 1, 1914."

Under section 9 two-family dwellings are subject to the same requirements as dwellings, unless otherwise specifically stated.

Under section 11, when any windows are within five feet of a fence, wall or building, then the latter shall be whitewashed or painted white, and maintained so as to reflect the maximum available light to such windows.

Under section 12 windows in tenements must be of the size of at least twelve square feet per room, must open on a street, yard or open area, and the upper half of it must open fully. In buildings of other grades windows must be of an approved lighting area and open to the outer air.

Under section 13, rooms must not be subdivided by a fixed or movable partition unless both parts have separate windows, and a floor area of not less than 70 square feet.

Section 14 provides for a window on each floor in the public halls of tenements, two-family dwellings and rooming houses; but where this cannot reasonably be done, then translucent glass panels may be inserted in the wall or doors of rooms whose windows open to the outer air and a ventilating skylight shall be put in at the top floor. If the halls are not then adequately lighted, the owner must provide sufficient artificial light; and an adequate light must be maintained at night, near the stairs until 10 P. M. and at the entrance and in the second floor hall all night.

Under section 16, the Division of Housing and Sanitation may order the walls and ceiling whitewashed or painted a light color for the purpose of improving the lighting.

Under section 17, the cellar, "when feasible," shall be ventilated and lighted by windows.

Under section 18, no cellar or cellar-room shall be used for human habitation. When basement (less than one-half below the surface) rooms are so used, they must be at least seven feet high, with dry walls. They shall not be used for sleeping purposes unless the house has along the side containing the window an open area not less than 2½ feet wide and extending from six inches below the floor to the street level. This area shall be drained to the sewer.

Under section 19 all courts, yards, areas and alleys about buildings of all grades must be properly graded and satisfactory sanitary conditions maintained.

Under sections 20 and 21, rain conductors must be connected to the sewer if there is one; and must not discharge water on the sidewalk on the adjoining property; and they must not be used for sewage.

Every house must be connected to a sewer if there is one accessible.

Under secton 23, every dwelling must be provided with a water-closet when there is a sewer connection, and at least one water-closet compartment must open into a hall or passageway independent of a room used for sleeping purposes.

Under section 24, there must be one water-closet for every four rooms. In every two-family house or tenement there must be one for each family, except that where there are apartments of one or two rooms there must be one for each two families. The general water-closet accommodations of a rooming-house or tenement must not be in the cellar, but the Board of Health may grant a permit to put a water-closet in a cellar.

Under section 25, where a sewer is not accessible, a privy-vault constructed in accordance with rules of the Board of Health shall be furnished. It must be cleaned frequently and lime freely used.

Section 26 regulates water supply as follows: In buildings of all grades, an adequate supply. In apartments of only one room, an accessible supply for every two apartments. In rooming-houses, a supply on each floor, except that where there are less than three rooms on a floor, then on every alternate floor. In tenements, a supply in each apartment. At every water fixture, there must be a sink, with a properly trapped drain, not enclosed with woodwork.

Section 29 regulates overcrowding by providing that no room in a dwelling, rooming-house or tenement, when used for sleeping purposes, shall be occupied at any one time by more than would give to each occupant over twelve at least 400 cubic feet of air space. When overcrowding is found, the Division of Housing and Sanitation shall place a tin placard in the room stating number of persons the room may accommodate.

Under section 30, the Division of Housing and Sanitation may vacate any building unfit for habitation, and, after due notice upon the owners, may remove the same at their expense.

Under section 31, wall paper may be ordered removed, and after a case of contagious disease new wall paper may only be put on the walls after all the old has been removed.

Under section 32, animals shall not be kept or slaughtered in a dwelling, rooming-house or tenement; but the Division of Housing and Sanitation may grant a permit to keep animals or fowls in the yard or property adjoining.

Section 33 forbids the keeping of feed, hay, straw and other inflammable materials in or about such buildings, except in stables, and in that case manure must be removed within seven days, except in sparsely settled districts.

Section 34 forbids manufacturing in such houses without a permit from the Board of Health, which must be refused if the work would create dust, foul odors, or undue noise, or would be liable to injure the health and safety of tenants, neighbors or workers. No room must be used at one time by more persons than would give to each at least 400 cubic feet of air space.

Under section 35, the Division of Housing and Sanitation may require a resident janitor in every tenement house occupied by six or more families.

Under section 36 all buildings of more than three stories must have fire-escapes as provided by law, and also rooming houses and tenements of three stories when the third floor contains more than five rooms and a bath-room, and is occupied by more than ten persons. Every apartment in other buildings must be equipped with a satisfactory wire, chain or other safe fire-escape. Fire-escapes must be kept in good order and unincumbered.

Under section 38, no wooden building over three stories must be occupied as a tenement, and within the fire limits no wooden building whatever.

Under sections 39 and 40 there must be adequate fire-proofing where a business requiring combustible materials is carried on, as an oil or paint shop, or where there is a bakery or where fat is boiled.

The remainder of the act contains general provisions empowering the Division of Housing and Sanitation to enforce cleanliness, garbage and ashes collection, and repairs, and to make rules and regulations, grant licenses and enforce the act by prosecution. Private prosecution is also allowed, but if there were not grounds which the court considers reasonable, the costs may be imposed on the prosecutor. The penalty for a first offence is $5 to $50 fine and for subsequent offences $25 to $200 or imprisonment for not more than 60 days, or both; after notice from the Division of Housing and Sanitation each week that a violation of the act continues constitutes a new offence.

3. CITIES OF THE SECOND CLASS.

(1) DEPARTMENT OF HEALTH.

Under the Act of April 1, 1909, P. L. 83, amending the charter act of cities of the second class of March 7, 1901, a Department of Health,

headed by a Director, is established, to which department is confided the enforcement of the general health laws relating to cities of the second class. In Pittsburgh, the Department of Health has four Bureaus, namely, (1) the Bureau of Infectious Diseases, which looks after transmissible Diseases, Disinfection, Bacteriology and School Medical Inspection; (2) the Bureau of Sanitation, which looks after Sanitary Plumbing and Tenement House Inspection and Smoke Inspection; (3) the Bureau of Food Inspection, and (4) the Bureau of Child Welfare, which has charge of school medical supervision, educational centres, municipal milk stations, supervision of midwives and conservation of the health of children.

Under the Act of June 26, 1895, P. L. 350, as amended by the Act of May 2, 1899, P. L. 164 (Cities 525 to 549), the Department of Health is given full power to abate nuisances both in the streets and on private premises, to charge the cost thereof to the person responsible for the nuisance and to punish persons who create the nuisance for violation of the act.

As a supplement to the foregoing act, the Act of April 29, 1911, P. L. 103, empowers the Department of Health to order the vacation of any building within ten days which has become unfit for use or dangerous to health, the same to remain vacant until the danger is removed or the building repaired; or, when the danger cannot be removed by repairs, to order its destruction by notice posted on the premises and also mailed to the owners or their agents. If the building is not then destroyed, the Department of Health may destroy it at the expense of the city; and the cost thereof may be recovered by suit against the owner, which suit shall be a lien against the premises. The act also provides a method of appeal to court from the order of the Department, by which the order of destruction of the building may be superseded, upon the giving of bond by the owner.

(2) PLUMBING LAW.

The Act of June 7, 1901, P. L. 493 (Cities 611 to 686), as amended by the Acts of May 14, 1909, P. L. 840 and June 12, 1913, P. L. 476, regulates the construction of plumbing in cities of the second class, the act being extended to cities of the third class by the Act of 1909. This act is very long and relates almost wholly to construction work, only a few sections relating to health regulations. It is required that whenever at all possible there shall be sewer connection from all buildings, and cess-pools and privy vaults must be discontinued. The 61st section, as amended in 1909, provides that it shall not be awful "to continue a privy vaul or cesspool on any lot, piece or parcel of ground abutting on or contiguous to any public sewer, within the city limits. The department of health shall have the power to issue notice, giving at least three months' time to discontinue the use of any cesspool and have it cleaned and filled up. No connection for any cesspool or privy vault shall be made with any sewer; nor shall any water-closet or house drain empty into a cesspool or privy vault." Under the 66th section, as amended in 1909, upon request of the owner or complaint by any citizen that the

plumbing is not in proper order in any building, it shall be examined by the Department of Health and the necessary changes shall be reported to the owner, with the time fixed within which they must be completed. If they are not so completed, the Department may institute an action before an alderman, justice of the peace or court of record to force compliance.

For the purpose of carrying this act into effect in the City of Pittsburgh, the ordinance of May 31, 1911, O. B. Vol. 23, page 157, was passed providing for a plumbing inspector and empowering him to enter buildings for the purpose of enforcing the law at any time of the day or night and notify the owners of any violation of the law. The ordinance also provides that when unsanitary conditions exist in any public buildings, schools, churches or colleges, the Department of Health, after notice, may close such buildings until such conditions are corrected. All dwelling houses shall be provided with proper sinks with running water, and water-closets must not be in direct communication with any kitchen, dining-room or restaurant, and must have communication with outside air.

(3) TENEMENT AND HOUSING LAWS.

Tenement houses are regulated in cities of the second class by the Act of March 25, 1903, P. L. 54 (Cities 597 to 609). This act defines a tenement house as any building "which is (a) intended or designated to be occupied, or (b) leased for occupation, or (c) actually occupied as a home or residence for three or more families living in separate apartments and doing their cooking upon the premises;" a "basement" is "a story partly, but not more than one-half, below the level of the street or ground surrounding the same;" and a "cellar" is a story more than one-half below ground.

Under section 2 no cellar room shall be used for living purposes, and no basement room unless (1) the ceiling be 8 feet 6 inches high, (2) at least one window in each room opens upon the street or upon a yard or court; the total area of the windows shall be at east one-eighth of the floor area and one-half of the sash shall open the full width and the top of each window shall be within six inches of the ceiling, and, (3) there shall be a proper water-closet in the apartment. All basement rooms are specially subject to examination by the Department of Health, and if damp or unfit for habitation, they must be put in proper condition or abandoned.

Under section 4, every other living room in a tenement or other dwelling must have at least one window, with an area not less than one-tenth the floor area, opening on a street or alley, or upon a court; if built since the act was passed, the court must not be less than one hundred square feet; if built before, then twenty-five square feet; or such room may, in an old house, adjoin another room which has a proper window, and between which two rooms there is a sash window having at least fifteen square feet of glazed surface, the upper half of which opens easily.

Under section 5, every room must be large enough to contain at least

seven hundred cubic feet of air, and be eight feet high throughout, except an attic room, which must be eight feet high over half its area.

Under section 6, there must be four hundred cubic feet of air for each person over twelve occupying any room, and two hundred cubic feet for each one under twelve.

Section 7 provides that wherever the Department of Health judges it possible, there must be connection with the city water supply, and at least one sink in each apartment, except that in houses built before the act, an accessible sink on each floor; and the space under the sink must not be enclosed with woodwork.

Section 8 regulates water-closets in tenements, requiring them in all cases where sewer connection is possible, and in houses built after the act was passed there must be at least one for each apartment of three or more rooms, and where apartments are smaller, then one for each three rooms. In older buildings, there must be one for each six rooms, but not less than one for each floor. By special permission of the Department of Health, water-closets may be located in the yard.

By section 9, every tenement house shall be kept in good repair and clean and free from accumulations of dirt, filth or garbage.

By section 10, no horse, cow, swine, pig, sheep, goat or poultry shall be kept in a tenement house; nor shall any part of them be used as a stable or for the storage of anything dangerous to life or health; nor shall any inflammable or combustible thing be stored under any stairway.

This law is enforcible by a summary fine of not more than $100, or in default thereof by imprisonment for thirty days; and any expense incurred by the city may be recovered from the owners or occupants of the houses by action of assumpsit. The act also provides for inspectors.

(4) HEALTH AND HOUSING ORDINANCES IN PITTSBURGH.

Under the charter Act of March 7, 1901, P. L. 20, a certain clause (Cities 492) empowers cities of the second class "to make regulations to secure the general health of the inhabitants, and to remove and prevent nuisances." Acting under this grant of power, the City of Pittsburgh, by its council, has enacted certain ordinances to some of which attention should be called.

Under ordinances approved July 15, 1908 (O. B. 19, page 500) and May 11, 1911 (O. B. 23, page 49), the above tenement house law was extended to all dwellings and amplified in certain details, probably the most important being the registration of tenement houses with the Department of Health, together with the name of the agent upon whom notices can be served. It is also provided that where more than six families reside in one house and the owner does not reside there, the Department of Health may require a janitor to be placed in charge of the house. There are numerous other provisions in the ordinances of a less important nature. They may be ascertained by inquiry at the Department of Health.

The Charter Act of 1901 (Cities 492) empowers cities "to make regulations to secure the general health of the inhabitants, and to remove

and prevent nuisances." Acting under the general power so granted, the City of Pittsburgh has enacted numerous ordinances, of which several of the more important for the purposes of this manual are herewith noted.

Under the ordinance of May 1, 1909, O. B. 20, page 292, offices called "Sanitary Inspectors" are provided, forming the Sanitary Police of the city. They are "subject to call at any time in the twenty-four hours, night or day, when emergency requires, and it shall be deemed needful by the Department of Health." They are given the right to enter any house, store, stable or other building at any time, day or night, and to cause the floors to be raised if deemed necessary by them in order to make a thorough examination of cellars, vaults, sinks or drains and to enter upon all lots of ground and to improve or correct any nuisance found. It is also provided that no person shall throw into or deposit in any vault, sink, privy or cesspool, any offal, ashes, meat, fish, garbage or other substance except that of which any such place is the appropriate receptacle.

The ordinance of May 10, 1912, O. B. 24, page 126, defines garbage and provides that every owner, lessee or occupant of any building or premises shall provide suitable receptacles for the same and keep them in such places as the Department of Health may direct. All light refuse or rubbish shall be confined so that it is not blown or scattered about, until properly removed.

The ordinance of April 24, 1911, O. B. 23, page 16, provides for the construction and cleaning of privy vaults, sinks or cesspools only under permits from the Department of Health. Scavengers engaged in the work of cleaning such places must not leave their places of business before 10 P. M. and must return before 6 A. M. During the prevalence of epidemics of contagious diseases, the matter removed from such places shall be disinfected when deemed necessary by the Department of Health.

The ordinance of March 28, 1911, O. B. 22, page 598, regulates offensive trades, placing the control thereof in the Department of Health. This ordinance applies to such trades as tanning, gas making and distributing, bone boiling, bone crushing, bone burning, skinning of horses, cows and other dead animals, glue making, lime making, fat rendering, cheese making, boiling of fish, swill or offal, heating, drying, storing of blood, scrap, fat and grease, manufacturing fertilizer and other offensive trades. Such work can only be carried on in accordance with conditions laid down by the Department of Health, and after a permit is regularly issued.

Under several other ordinances approved March 28, 1911, recorded in O. B. 22, page 604, and following, certain matters are regulated, as follows:

Animals infected with a contagious or pestilential disease shall be removed under direction of the Department of Health.

Stagnant water shall be drained off, and offensive lots or excavations shall be filled with clean earth or other inoffensive substance.

Slaughter houses shall be cleaned within twenty-four hours after being used.

Rags must not be stored, dried, cleaned or assorted except in premises at least two hundred feet from any house, factory or building occupied by human beings.

Manure must be kept in a water-tight box, which must not be filled to overflow.

Stables must be well drained and kept clean.

No horses, cattle, swine, sheep, geese or goats shall be kept in a built-up part of the city without a permit.

Cellars should not be used as stables without a permit.

No live pigeons shall be kept without a permit.

Poultry shall not be kept without a permit, except upon premises of large dimensions free from built-up districts.

Dogs, cats, birds or other small animals shall not be sold or kept for sale without a permit and in accordance with rules and regulations of the Department of Health.

No person owning, occupying or having charge of any building or premises shall keep or allow thereon or therein any animal or bird which shall by noise disturb the quiet or repose of any person therein or in the vicinity to the detriment to life, health or comfort of any human being.

Straw used for bedding for animals shall not be placed or dried upon the street nor on the roof of any building; nor shall straw, hay, paper, or other matter be burnt at any place in the city without a permit.

By the ordinance of Dec. 12, 1910, No. 416, spitting in public places is forbidden under a penalty of a fine of $5 to $50, or, in default thereof, of imprisonment in jail for five to ten days.

The ordinance of Dec. 12, 1910, No. 418, relates to the boarding of infants for hire. Section 1 provides that any person taking more than one infant for hire under the age of five years for a longer period than 48 hours shall give notice of such fact to the Department of Health, stating the name, age and sex of such infants, name of the person receiving them, the street and number of the dwelling and the name and address of the persons placing them. When an infant is removed, notice must be given. Section 2 provides that when an infant under two years is placed with any person, in consideration of not more than $100, without agreement for further payment, such person shall give notice of the fact to the Department of Health within 48 hours. Other sections of this ordinance provide as follows:

The Department of Health shall fix the number of infants that may be received at one dwelling.

If the house is unfit or overcrowded, or the person in charge is negligent, ignorant or otherwise so unfit as to endanger the health of the infants the Department of Health may remove any such infant to a proper institution or place of safety, until restored to its relatives or otherwise lawfully disposed of.

Agents of the Department of Health shall inspect such infants and the premises and give any necessary advice or directions as to their maintenance.

Notice of death must be given within 24 hours.

Penalty for violation, $10 to $100, or 30 days in jail in default of payment of fine.

4. CITIES OF THE THIRD CLASS.

The charter act for cities of the third class, being the Act of May 23, 1889, P. L. 277, in Article V (see Cities 765, 766 and 770), empowers such cities to make regulations to secure the general health of the inhabitants and to remove and prevent nuisances, to make quarantine regulations, and enforce them within five miles of the city limits, and to provide a system of inspection of buildings to insure their structural and sanitary safety and incombustibility, and establish limits within which all future construction must be fireproof.

Under Article XI (Cities 871 et seq.), the council may create a board of health of five members with power to make and enforce rules and regulations relating to contagious diseases, abating of nuisances, enforcement of vaccination, construction and maintenance of house drains, waste and soil pipes and cesspools, and such other regulations as they shall deem necessary for the preservation of the public health. They may appoint as many ward or district physicians and other sanitary agents as they may deem necessary to prevent the spread of contagious disease. They shall also elect a health officer to carry their rules into effect.

Under the Act of May 16, 1901, P. L. 224 (Cities 877), the city may abate any nuisance and file a lien against the real estate for the cost thereof.

By the Act of May 14, 1909, P. L. 840, the plumbing law for second class cities was extended to cities of the third class, and plumbing inspectors are appointed under that act and all plumbing is done in accordance therewith.

5. BOROUGHS AND FIRST CLASS TOWNSHIPS.

The Act of June 12, 1913, P. L. 471, which repealed the health laws for boroughs and townships of the first class (those having a population of 300 or more to the square mile), provides that a board of health shall be established and maintained in each borough and township of the first class within three months after the passage of the act. The board shall be composed of five members, of whom one must be a physician of two years' experience. They elect a health officer who is not a member of the board, but who shall attend all meetings of the board, and whose duty it is (1) to placard and quarantine all places where there is contagious disease, (2) disinfect such places at the end of the quarantine period, (3) serve written notice upon the school authorities as to the exclusion from school of children residing in quarantined premises, and (4) make sanitary inspections and execute the orders of the Board of Health. The act makes it the duty of the Board of Health to enforce the health laws of the State and the regulations of the State Department of Health. They have the power to make further health regulations and to enforce them, and, with the consent of councils, to establish emergency

hospitals when needed. They, and their assistants and workmen, can enter upon any premises and search for and abate any nuisances detrimental to the public health, and the expenses of abating nuisances, if incurred after reasonable notice to the owner to abate the same, may be recovered from the owner by action at law.

Under the tenth section of the act, the Commissioner of Health of the Commonwealth is given power to enter into any borough or township of the first class and take full charge of and administer the health laws, whenever in his opinion, conditions there existing constitute a menace to persons residing outside of such borough or township, or if such borough or township is without an efficient board of health. He may continue in charge until such time as he is satisfied that a competent board of health has been appointed and qualified and is ready, able and willing to assume and carry into effect the duties imposed upon it by law. The expenses thus incurred by the Commissioner of Health are to be paid by such borough or township, and legal action may be instituted to recover them.

The Act of June 5, 1913, P. L. 434, empowers boroughs, by ordinance, to prohibit accumulations of garbage or rubbish upon private properties within their limits, and to prescribe penalties for the violation thereof.

6. TOWNSHIPS OF THE SECOND CLASS.

There are no statutes applying specifically to health protection in townships of the second class. The whole matter is left to the State Department of Health, which is sufficiently well equipped to look after it.

7. MISCELLANEOUS HEALTH LAWS.

The Act of June 18, 1895, P. L. 203, as amended by the Acts of April 3, 1903, P. L. 138, and April 22, 1903, P. L. 244 (Municipalities 25 to 46), provided certain health regulations for "municipalities," which the courts have held include townships as well as cities and boroughs: Sprague v. Baldwin, 18 Pa. C. C. 568. The act therefore applies to all the state. This act was all repealed by the Act of May 14, 1909, P. L. 855 (see State Department of Health), except three sections, as follows:

Section 12. "All principals or other persons in charge of schools as aforesaid are hereby required to refuse the admission of any child to the schools under their charge or supervision, except upon a certificate signed by a physician setting forth that such child has been successfully vaccinated, or that it has previously had smallpox."

The courts have held this act constitutional and not in conflict with the compulsory school attendance laws. When a child is refused admission to school for this reason its parents are not liable under those laws. Com. v. Smith, 24 Pa. C. C. 129. If the physician is by law authorized to practice, his qualifications and standing cannot be questioned, and a certificate issued by him is good and the child must be admitted to school. Cousins v. Warren Borough School District, 28 Pa. C. C. 381.

Sec. 20. No justice of the peace, member of council, or other officer,

except school directors, constables, or election officers, shall at the same time be a member of or employed by any board of health.

Sec. 21. Any violation of the act is punishable by summary conviction by a fine of not less than $5 nor more than $100, or, in default thereof, by imprisonment in jail for a period not exceeding 60 days. All prosecutions must be begun within 60 days after the commission of the offense, and not thereafter.

Under the School Code, being the Act of May 18, 1911, P. L. 309, medical inspection of schools and school children is provided for in Article XV. Every school district of the first and second classes, which means every city, borough and township with more than 30,000 population, is required to provide medical inspection either directly or through the local board of health. Districts of the third class (5,000 to 30,000 population) may have medical inspection, but the directors may vote to dispense with it in any year. Districts of the fourth class may be provided with inspection by the State Department of Health, but the same may be dispensed with by vote of the school directors of such district. All medical inspectors must have practiced two years. All pupils must be examined at least once a year (the parent or guardian having the right, on request, to be present), special attention being given to defective sight, hearing or other defects specified by the Commissioner of Health in his instructions to the inspectors. A report is made to the teacher, with instructions as to care when necessary, and the teacher must carry out the instructions during the year and also furnish a copy to the parents or guardian of the child. The medical inspector must also make a careful examination of all water-closets, cellars, the water supply and drinking-vessels, and the sanitary conditions of the school premises, and he must see that the laws and the rules and regulations of the health authorities are complied with. Any board of school directors may employ one or more school nurses and may define their duties.

No person having tuberculosis of the lungs shall be a pupil, teacher, janitor, or other employee in any public school unless it be a special school carried on under the regulations made for such schools by the Commissioner of Health.

By the Act of May 11, 1909, P. L. 516, spitting "on any public walk, public wharf or landing, or on the floor, platform, stairway, or elevator, or covering used thereon, of any railroad or railway station, or other building to which the public has access; or on the floor or platform or steps, or any covering used thereon, of any railroad or railway car, or other vehicle, conveyance, or common carrier used for the transportation of the public" is forbidden under a fine of one dollar and costs, or, in default of payment, of imprisonment for from one to five days.

The licensing of lodging houses in all cities is regulated by the Act of July 2, 1895, P. L. 428 (Cities 86 to 95). A lodging house is defined by the act as every building not licensed as an hotel, inn or tavern, in which ten or more persons are lodged, for a single night, of twenty-five cents or less for each person. Such places may not operate without a license issued by the mayor after the building has been satisfactorily

passed upon by the city's building inspectors, the fire marshal, if any exists, and, if not, by some person appointed by the mayor, and by the board or department of health of the city. The health authorities shall adopt rules and regulations relating to cleanliness and disinfection in such places, and any health, fire or building inspectors, and the police, shall have free access at any time. A register shall be kept at all times. A license may be forfeited by the mayor for failure to comply with the act after notice and a public hearing held.

The Crimes Act of March 31, 1860, P. L. 382, § 73 (Crimes 259), makes it a misdemeanor to maintain a public or common nuisance; and it is also provided that if the nuisance remains at the time of conviction the court may order the sheriff to abate the same at the expense of the defendant.

Under the Act of June 8, 1907, P. L. 503 (Department of Health 37a to 37d), any board of health may declare any alley, lane or passageway located within its territorial jurisdiction a public nuisance or menace to health. The adjacent property owners may thereupon petition the court of quarter sessions for its vacation, and a jury of view may be appointed to hold hearings and report to the court, when an order of vacation may be made. But no lot or lots may in this way be deprived of the sole means of ingress or egress.

Under the Act of July 22, 1913, P. L. 913, the work hours of any horse, mare, mule, ox or other animal are limited to fifteen in any one day and ninety in any one week, the act applying only to cities of the first and second classes, the same to be enforced on their own view by police officers and officers and agents of humane societies, and by other persons by making regular informations.

Under the Act of May 19, 1897, P. L. 77 (Municipalities 47 to 49), bone-boiling establishments and depositories of dead animals may not be located in any city or borough without first obtaining the permission of the board of health; and it may not be conducted in any township except under the supervision and subject to the regulations of the State Department of Health.

The Act of May 20, 1913, P. L. 240, makes it unlawful to use night soil as a fertilizer on any ground on which vegetables of a variety eaten uncooked for human food are being grown.

The Act of June 5, 1913, P. L. 441, regulates the practice of midwifery by forbidding any person except a duly licensed physician to practice midwifery before receiving a certificate from the Bureau of Medical Education and Licensure and registering such certificate in the office of the Prothonotary of the proper county. Any person practicing midwifery without complying with these requirements is liable to fine and imprisonment.

The Act of June 5, 1913, P. L. 443, aims to prevent blindness from ophthalmia neonatorum (inflammation of the eyes of infants) by requir-

ing the physician, midwife or nurse in charge of any infant under two weeks old to report the case to the health authorities if the infant's eyes become inflamed or swollen or reddened. The report must be made within six hours and must state the name of the disease, and the name, age, sex, color and nativity of the infant, with the street and number of the house, the date of the onset of the disease and the name and occupation of the householder. A midwife or nurse must, in addition, notify in writing a practicing physician of the district. If any physician treating such a case ceases such treatment for any reason, he must at once notify the health authorities, and give the condition of the case when last treated by him. Any violation of the act is punishable by process of summary conviction before any justice of the peace or alderman by fine of not less than $20 nor more than $100, and imprisonment of ten to thirty days.

Upon receipt of any such notice by the health authorities from any person other than a practicing physician, it is their duty to notify the parents or guardian, or other person having charge of the infant, of the danger to the eyes of any neglect of proper treatment. It is also the duty of every health officer to furnish a copy of the act to every person known by him to act as a midwife or nurse within his district.

There are numerous laws relating to the establishment of state and local quarantine for the preservation of the public health. Most of these laws relate to the inspection and quarantine of vessels and are not necessary to be given here in detail. They will be found in full in Pepper & Lewis's Digest, 2d Edition, under the title "Quarantine."

CHAPTER VII.

CRIMINAL LAW.

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INTRODUCTION.

In Pennsylvania the general Crimes Act of March 31, 1860, P. L. 382, and the Criminal Procedure Act of March 31, 1860, P. L. 427, have largely displaced the common law in the criminal branch of the law, and most of the subject is now statutory. These acts, together with all amendments and supplements passed by the Legislature down to, and including, the year 1907 are to be found in Pepper and Lewis's Digest of Laws, 2d Edition, under the titles "Crimes" and "Criminal Procedure." The title "Crimes" consists of 318 sections treating of 78 different and distinct kinds of crimes. The title "Criminal Procedure" consists of 159 sections treating of such matters as warrant for arrest, requisition, bail, indictments, pleas, jurisdiction of courts, juries, verdicts, conduct of trials, costs, sentences, and related matters of procedure.

It is manifestly impossible, in a manual such as this, to digest all of these statutes. Most of the crimes, however, will be noted, and under criminal procedure a general outline of criminal cases will be given as a hint of what may be expected in such cases.

1. ALPHABETICAL LIST OF CRIMES.

ABORTION.

Administering to a pregnant woman any drug, poison or other substance or using any instrument or other means, with the intent to cause a miscarriage, and such woman, or the child with which she is pregnant, shall die therefrom, is a felony, punishable by fine of $500 and imprisonment, by separate or solitary confinement at labor, for seven years.

Attempting to procure an abortion is likewise a felony, but imprisonment is limited to three years.

Advertising or keeping for sale any drugs or medicines for the purpose of preventing conception or procuring abortion is a misdemeanor, punishable by fine of $1,000 or imprisonment in jail for six months, or both; but it is provided that this law shall not affect teaching in regular chartered medical colleges or the publication of standard medical books.

ACCESSORIES.

To any felony there may be accessories, but in the case of misdemeanors there are not accessories, although the law provides that every person who shall counsel, aid or abet the commission of any misdemeanor, and for whom no punishment is otherwise provided, may be punished as a principal.

Accessories before and after the fact to any felony may be tried either before, at the same time, or after the principal is tried, and an accessory before the fact may be tried as a principal.

ADMINISTERING NARCOTICS.

Unlawfully and wilfully administering chloroform or other stupefying and overpowering drug with intent to enable the offender or other person to commit a felony is a felony, punishable by fine of $5,000 and imprisonment at hard labor not more than ten years.

ADULTERATION OF FOOD.

Adulteration of food or selling adulterated food is a misdemeanor punishable by fine of $100 or six months' imprisonment.

ADULTERY.

"If any married man shall have carnal connection with any woman not his lawful wife, or any married woman have carnal connection with any man not her lawful husband, he or she so offending shall be deemed guilty of adultery," and fined $500 or imprisoned one year, or both.

ARSON.

(1) Maliciously and voluntarily burning or setting fire to any factory, mill or dwelling house of another, or any building belonging thereto, is felonious arson, punishable by fine of $2,000 and separate and solitary confinement at labor not exceeding twelve years; and if there is any person in the building at the time the fine is $4,000 and the imprisonment twenty years.

(2) Firing buildings not dwellings is a misdemeanor, punishable by fine of $2,000 and separate or solitary confinement at labor not exceeding ten years.

(3) Firing with intent to defraud insurers is a misdemeanor; fine $1,000, and seven years' separate or solitary confinement at labor.

(4) Firing woods, lands or marshes so as to cause damage to another is a misdemeanor; fine, $100 and twelve months' imprisonment.

ASSAULT AND BATTERY.

There are several kinds of assault and battery, shortly as follows:

(1) Assault and battery; $1,000 fine or one year, or both.

(2) Aggravated assault and battery, which is inflicting upon another

any grievous bodily harm, or unlawfully cutting, stabbing or wounding another; $1,000 fine or three years, or both, and the imprisonment may be by separate or solitary confinement.

(3) Assault and battery upon a female, with intent, forcibly and against her will, to have unlawful carnal knowledge of her; $1,000 fine and five years' separate or solitary confinement at labor.

(4) Assault with firearms or wounding with intent to maim, disable or disfigure another is a felony; $500 fine and three years' separate or solitary confinement at labor.

(5) Assault with explosives with intent to maim or do grievous bodily harm is a felony; $500 fine and three years' separate or solitary confinement.

(6) Assault, poisoning, stabbing and wounding with intent to commit murder is a felony; $1,000 fine and seven years' separate or solitary confinement at labor.

(7) Assault with intent to kill, although no bodily injury be effected, is a felony; $1,000 fine or seven years' separate and solitary confinement at labor, or both.

(8) Robbing another, or assault with intent to rob, is a felony; $1,000 fine and five years' separate and solitary confinement.

(9) Assault by sending or delivering any explosive or corrosive substance, with intent to burn, maim, disfigure or disable any person is a felony; $1,000 fine and three years' separate and solitary confinement at labor.

(10) Administering chloroform or other stupefying drug with intent to commit, or assist another to commit, a felony, is a felony; $500 fine and five years' separate and solitary confinement at labor.

ATTEMPTS.

Where it appears at the trial that the defendant did not complete the crime charged, but was guilty of an attempt to commit that crime, then the jury may so find, and he may be punished in the same manner as if he had been convicted upon an indictment for an attempt to commit such crime.

BASTARDS.

For a woman to endeavor privately to conceal the death of her bastard child is punishable by three years' separate or solitary confinement at labor.

BAWDY HOUSES.

Keeping a place for the practice of fornication or knowingly letting a place to be so kept is a misdemeanor; $1,000 fine and two years' imprisonment.

For any man to take money from the proprietress or inmate of any such house, or to stay, frequent or loiter in or about such house is a misdemeanor; $1,000 fine or three years' imprisonment, or both.

Under the act of July 26, 1913, P. L. 1369, it is provided that "any building, or part of a building, used for purposes of fornication, lewdness,

assignation, or prostitution, shall be a nuisance." Any person with reason to believe such facts may notify the owner and the agent in writing personally or by registered mail. If the nuisance is not then abated within one week, the court of common pleas, on petition of the district attorney or of any citizen of the county, may, after hearing, grant a preliminary injunction restraining the owner and tenant from using such building in such a way. This injunction may later be made permanent, and disobeying the same is made a misdemeanor with a fine of not less than $500 nor more than $1,000 and imprisonment of not less than six months or more than two years, either or both.

BIGAMY.

For a husband or wife to marry another, or to live with another as his or her wife or husband is a misdemeanor. This crime is punishable in the county where the second marriage took place, and also where the parties thereto lived together. Proceedings must be brought within two years of the second marriage or within two years of any act of cohabitation. The punishment is $1,000 fine or two years' separate and solitary confinement at labor.

BLACKMAILING.

If any person shall, with intent to extort money or other valuable thing, by means of threats or charges, do injury to the person, property, reputation or business of another, he shall be guilty of a misdemeanor and shall be imprisoned three years and fined $1,000.

BLASPHEMY.

Wilfully and premeditately blaspheming is a misdemeanor punishable by $100 fine or three months' imprisonment, or both.

BRIBERY.

Bribing any official is a misdemeanor punishable by fine of $500 and imprisonment by separate or solitary confinement at labor for one year. The official accepting the bribe is punishable by fine of $1,000 and imprisonment of five years.

BURGLARY.

Breaking and entering by night any public building, church or dwelling house, with intent to kill, rob, steal or commit a rape, or any felony whatever, whether the intent be executed or not, constitutes the felony of burglary and is punishable by a fine of $1,000 and separate or solitary confinement at labor not exceeeding ten years.

Breaking and entering any building in the daytime, with intent to commit any felony is a felony punishable by $500 fine and separate or solitary confinement at labor not exceeding ten years.

Breaking and entering railroad cars with intent to commit a felony, either by day or night, is a felony punishable by $500 fine and four years' separate and solitary confinement at labor.

Entering any building, either by day or night, with intent to commit a felony by the use of explosives, is a felony punishable by $1,000 fine and twenty-five years' separate and solitary confinement at labor.

Having possession of burglar's tools, with the intent to use them, is a misdemeanor, punishable by fine of $500 and three years' separate and solitary confinement, and the intent may be inferred from the fact of possession.

CHEATING.

Cheating that amounts to an injury to the public, and not a mere private fraud, is indictable at common law. The crime differs from false pretense in that in the latter the important element is the obtaining of property, whereas this element is not necessary in the crime of cheating. See the old case of Respublica v. Powell, 1 Dallas 47, decided in 1780.

COMMON SCOLDS.

No statute makes it an offence to be a common scold, but under the common law, which is still in force by virtue of a saving clause in the Act of March 31, 1860, P. L. 425, § 178, a common scold may be indicted and punished as a public nuisance. Commonwealth v. Mohn, 52 Pa. 243. The punishment in such a case cannot be the "ducking stool," but only fine and imprisonment. James v. Commonwealth, 12 S. & R. 220.

COMPOUNDING CRIMES.

If any person has knowledge of the actual commission of a serious crime and then takes money or other reward or promise to compound or conceal such crime, he is guilty of a misdemeanor punishable by fine of $1,000 and imprisonment not exceeding three years.

CONSPIRACIES.

"If any two or more persons shall falsely and maliciously conspire, and agree to cheat and defraud any person, or body corporate, of his or their moneys, goods, chattels or other property, or do any other dishonest, malicious and unlawful act, to the prejudice of another, they shall be guilty of a misdemeanor," fine, $500, and two years' imprisonment.

COUNTERFEITING.

There are a large number of sections relating to counterfeiting, for which see the digest.

CRUELTY TO ANIMALS.

(1) Wantonly and cruelly beating, torturing, killing or maiming any horse or other domestic animal is a misdemeanor; fine $200, or one year's imprisonment, or both.

(2) Wilfully and maliciously killing, maiming or disfiguring any horse, cattle, dog or other domestic animal, or poisoning any such animal is a misdemeanor; fine $500 or three years' separate or solitary confinement at labor, or both.

(3) Cruelty to any animals is prohibited under fines for the first offence of $10 to $20, and for subsequent offences of $20 to $50, to be paid one-half to the informer and the other half to the county, to be imposed by the magistrate or alderman; or the case may be sent to court and a fine of $200 or imprisonment of one year, or both, imposed. If the arrest be made for cruelty in carrying an animal in a vehicle, the person making the arrest may take charge of the vehicle and its contents and may hold it until any charges in connection with caring for it have been paid, or such person may sue the owner for any expenses incurred in caring for the animal and the vehicle.

(4) Such arrests may be made on sight by any policeman, constable or agent of a duly incorporated society for the prevention of cruelty to animals.

(5) Under the Act of May 6, 1909, P. L. 443, it is unlawful to offer for sale any horse which could not be worked without violating the laws against cruelty to animals.

(6) Under the Act of May 5, 1911, P. L. 178, allowing a cow to go unmilked for twenty-four hours is a misdemeanor, punishable by fine of $25 or thirty days' imprisonment, after conviction before any alderman, magistrate or justice of the peace.

(7) Under the Act of June 3, 1911, P. L. 654, if any officer makes oath before an alderman, magistrate or justice of the peace, that he has reason to believe that an act of cruelty to animals is being committed in any building, a search warrant may be issued to any officer to search said premises; and the officer may arrest any guilty person and may take possession of any animal and care for it at the cost of the owner.

(8) Under the Act of June 7, 1913, P. L. 462, any officer may destroy any disabled animal after receiving a written certificate of two reputable citizens called by him to view such animal, the owner having the right to choose one. When any person is convicted of cruelty, the magistrate, alderman or justice of the peace may direct as part of the sentence that such animal be humanely destroyed.

(9) Under the Act of July 22, 1913, P. L. 913, it is unlawful to work any horse, mare, mule, ox or other animal more than fifteen out of any twenty-four hour period, nor more than ninety hours in any one week in any city of the first or second class. Penalty, fine of not less than $10 nor more than $50, or imprisonment for six months, said fine to be paid to any regularly incorporated society for the prevention of cruelty to animals.

CRUELTY TO INFANTS.

(1) If any master or mistress of an apprentice or any person having legal care of any infant, wilfully refuses or neglects to provide necessary food, clothing or lodging, or unlawfully assaults such apprentice or infant, it is a misdemeanor punishable by fine of $500 or imprisonment for two years, or both.

(2) If the father or mother of any child under seven, or other person to whom such child shall have been confided, shall expose such child in any highway, street, field, house, outhouse or other place, with intent to

wholly abandon it, such person shall be guilty of a misdemeanor; penalty, imprisonment for twelve months and fine of $100.

DEADLY WEAPONS.

(1) Carrying concealed deadly weapons, with the intent of unlawfully doing injury to another, is a misdemeanor, punishable by fine of $500 and imprisonment by separate or solitary confinement for one year; and the intent may be inferred from the fact of carrying such weapons.

(2) Playfully or wantonly pointing or discharging a firearm at another person is a misdemeanor, punishable by fine of $1,000 and imprisonment for one year.

(3) Under the Act of May 8, 1909, P. L. 466, for the protection of game, it is unlawful for any unnaturalized foreign-born resident to own or be possessed of a shotgun or rifle of any make; penalty, $25 fine for each offence, or one day in jail for each dollar of penalty imposed, and in addition all such guns are to be forfeited.

DEALING IN INFANT CHILDREN.

Under the Act of April 18, 1905, P. L. 213 (Juveniles 31), dealing in humanity, by bartering, buying and selling infant children, is a misdemeanor, punishable by fine of $1,000 and five years' imprisonment.

DISORDERLY CONDUCT.

(1) Making any loud, boisterous and unseemly noise or disturbance to the annoyance of the peaceable residents nearby, or near to any public highway or park, whereby the public peace is broken or the travelling public annoyed, is disorderly conduct punishable by summary conviction by the fine of $10, and in default thereof by thirty days in jail, the defendant having five days in which to appeal to court from such conviction.

(2) Annoying passengers upon railway cars or visitors at public or private parks by loud noise or obscene language, whereby the public peace is broken, is disorderly conduct, punishable as above; and by the Act of May 19, 1913, P. L. 223, it is the duty of the conductor to arrest on view any guilty person and deliver him to any constable in the county, who shall put him in jail.

DISORDERLY HOUSES.

Keeping a "common, ill-governed and disorderly house or place, to the encouragement of idleness, gaming, drinking, or misbehavior, to the common nuisance and disturbance of the neighborhood or orderly citizens" is a misdemeanor, punishable by fine of $500 or imprisonment for one year, or both.

DISTURBING PUBLIC ASSEMBLIES.

Disturbing public assemblies of any kind is punishable by fine of $50 or imprisonment for three months, or both.

DUELLING.

Challenging or accepting a challenge to fight with a deadly weapon is punishable by fine of $500 and imprisonment by separate or solitary confinement at labor for three years. Carrying or delivering such challenge, or consenting to be a second at a duel is a misdemeanor, punishable by the same fine and two years' such imprisonment. Concealing knowledge of such a challenge or posting another in any newspaper or handbill as a coward or using any abusive language towards any person for not accepting a challenge or fighting a duel is a misdemeanor punishable by the same fine and one year's such imprisonment.

EMBEZZLEMENT.

Embezzlement is the converting to his own use of property which came legally into the possession of the guilty person and differs from larceny in the fact that larceny is the taking possession of the property of another with intent to convert to the guilty person's own use. Larceny by bailee is on the border line between these two offences. There are a large number of statutes covering embezzlement, but it is unnecessary to give them here. In addition to those given in the Digest reference is made to the Act of April 23, 1909, P. L. 169, not included therein.

EMRRACERY.

Attempting to corrupt or influence a juror or arbitrator by any private means other than by the strength of evidence or the arguments of counsel during the trial or hearing of the case, is a misdemeanor, punishable by fine of $500 or imprisonment for one year, or both.

ESCAPE OF PRISONERS.

(1) Breaking prison by one charged with an indictable offence, even if no escape be actually made, is a misdemeanor, punishable by various imprisonments depending on the seriousness of the original crime. Aiding such an escape is likewise a misdemeanor.

(2) Aiding an inmate detained in any of the charitable, penal or other institutions of the commonwealth maintained wholly or in part by state appropriations, is a misdemeanor, punishable by fine of $50 and three months' imprisonment.

(3) Any officer voluntarily permitting or suffering his prisoner to escape and go at large is guilty of a misdemeanor, punishable by fine of $500 and imprisonment by separate or solitary confinement at labor, or by simple imprisonment, for five years, and he shall, moreover, by the sentence, be dismissed from office. If the escape is allowed merely by negligence, the imprisonment is reduced to not more than one year.

(4) For an officer, without reasonable cause, to refuse to execute any lawful process directed to him, requiring him to apprehend a person charged with a criminal offence, is a misdemeanor, punishable by fine of $500, and imprisonment for two years.

(5) Obstructing the execution of legal process is a misdemeanor, punishable by fine of $100 and imprisonment for one year.

(6) Under the Adult Probation Act of June 19, 1911, P. L. 1055, whenever any person on probation shall violate the terms of his probation, he is liable to arrest in the same manner as in the case of an escaped convict.

EXHIBITING INSANE OR DEFORMED PERSONS.

Exhibiting for pecuniary consideration any insane, idiotic or deformed person, or any imbecile, or any mental or physical deformity, is a misdemeanor, punishable by fine of $1,000 and six months' imprisonment.

EXTORTION.

(1) For any public officer wilfully to receive or take any reward or fee not allowed by statute, or in a larger amount than allowed, is a misdemeanor in office, punishable by fine of $500 or imprisonment for one year.

(2) By the Act of June 9, 1911, P. L. 833, attempting to intimidate, annoy or levy blackmail, or extort money, by written, printed or oral communications is a misdemeanor, punishable by fine of $1,000 and three years' imprisonment.

(3) By the Act of May 19, 1913, P. L. 222, extorting or attempting to extort money or other personal property of value by means of oral or written threats to kidnap any person, or to injure or destroy property, is a felony, punishable by fine of $1,000 and imprisonment by separate or solitary confinement at labor for fifteen years.

FALSE ALARMS.

(1) Giving false fire alarms in Philadelphia or injuring fire alarm boxes is a misdemeanor, punishable by a fine of $500 and two years' imprisonment.

(2) Raising a false alarm of fire, knowing the same to be false, is a misdemeanor, punishable by fine of $100 and one year's imprisonment.

FALSE PRETENCES.

(1) Obtaining property by false pretence, with intent to cheat and defraud any person of the same, is a misdemeanor, punishable by fine of $500 and three years' imprisonment.

(2) Falsifying the books of account of any company or municipal corporation, with intent to deceive any person, or to possess himself of money or property, is a misdemeanor.

(3) By the Act of May 8, 1913, P. L. 161, making a false statement of financial condition, in writing, for the purpose of procuring money, property or credit, is a misdemeanor, punishable by fine of $1,000 and one year's imprisonment.

FAST DRIVING.

The fast driving of any public conveyance, railroad cars or steamboat, whereby some person is injured, is a misdemeanor, punishable by fine of $500 and imprisonment for five years.

FORCIBLE ENTRY AND DETAINER.

With violence and a strong hand entering upon or into any land or buildings, or after entering peaceably, turning out, by force or threats or menacing conduct, the party in possession, is forcible entry, punishable by fine of $500 and one year's imprisonment, and by making restitution of such lands and tenements.

By force and a strong hand, or by menaces or threats, unlawfully holding and keeping possession of any lands and tenements, whether possession were obtained peaceably or otherwise, is forcible detainer, punishable by fine of $500 and one year's imprisonment, and by making restitution of such lands and tenements; provided that no person shall be adjudged guilty of forcible detainer if he has been in peaceable possession for three years.

FORGERY.

There are numerous statutes covering different kinds of forgery, not necessary to give here. Forgery is a misdemeanor, and the general act covering it fixes the penalty at a fine of $1,000 and imprisonment by separate or solitary confinement at labor for ten years.

FORNICATION AND BASTARDY.

Since this act is really for the support of children born out of wedlock, the law concerning it will be found under the heading "Desertion and Non-support."

FORTUNE TELLING.

Pretending, for gain or lucre, to predict future events, and all like offences, are misdemeanors, punishable, for the first offence, by imprisonment for not less than fifteen days nor more than two years and fine of not less than $10 nor more than $100, and, for the second offence, by fine of $500 and five years' imprisonment.

FRAUDS.

Under this heading such offences as cheating lodging-house keepers (see the later Act of June 12, 1913, P. L. 481), removing or secreting property with intent to defraud creditors, selling articles marked "gold" which are of less than a certain fineness, the same with regard to "sterling silver" and "coin silver," the fraudulent confession of judgment, and the use of false or forged letters of recommendation are made misdemeanors.

FUGITIVES.

Removing a prisoner from the state without proper papers is a misdemanor punishable by one year's imprisonment. Making a false inform-

ation for the purpose of procuring the arrest of another is punishable in the same way.

GAMBLING.

Keeeping a gambling house is a misdemeanor, punishable by fine of $500 and imprisonment for one year. No witness shall be excused from testifying on the ground that he might incriminate himself, but his testimony shall not be used against him. Upon affidavit, magistrates may issue search warrants.

Enticing others to visit gambling houses is a misdemeanor, punishable by fine of $500; and besides the person enticing another shall be liable civilly to repay any loss sustained.

INDECENCY.

If any person shall commit open lewdness, or any notorious act of public indecency, tending to debauch the morals or manners of the people, such person shall be guilty of a misdemeanor, punishable by fine of $100 and imprisonment for one year.

INDECENT EXPOSURE.

Indecent exposure of the person is an indictable offence at common law. Commonwealth v. Spratt, 14 Phila. 365; Commonwealth v. Sharpless, 2 S. & R. 91.

INSOLVENCY.

Fraudulent insolvency, with intent to defraud creditors, and collusion with another to conceal his assets, are made misdemeanors by law.

INTERFERENCE WITH EMPLOYEES.

For members of striking employees to interfere with persons who have been employed to take their positions has been held to warrant the court to hold them to bail for surety of the peace. Commonwealth v. Silvers, 1 D. R. 281 (1892). It has also been held to be disorderly conduct. Comm. v. Redshaw, 2 D. R. 96 (1892).

KIDNAPPING.

Kidnapping, with intent to extort money, is a felony, punishable by life imprisonment, or any term of years, at the discretion of the court. Aiding and abetting in kidnapping, with like intent, is also a felony, punishable by fine of $5,000 and imprisonment by separate and solitary confinement at labor for twenty-five years.

LARCENY.

(1) Larceny is a felony, punishable by fine of $500 and imprisonment by separate or solitary confinement at labor for three years.

(2) Larceny by bailee is punishable as larceny.

(3) Larceny from the person, or robbery, is a felony, punishable by

fine of $1,000 and seven years' separate or solitary confinement.

(4) Larceny from houses, in the daytime, by breaking and entering, or either by night or day by entering without breaking, is a felony, punishable by a fine of $500 and four years' separate or solitary confinement at labor.

(5) Larceny of wire in use for transmitting electricity is a felony, punishable by fine of $500 and seven years' separate or solitary confinement at labor.

(6) Stealing metal or other fixtures or articles from a building is made larceny, punishable by fine of $500 and three years' separate or solitary confinement at labor.

(7) Stealing bank bills, notes, certificates and evidences of indebtedness and choses in action is made larceny, punishable by fine of $500 and two years' separate or solitary confinement.

(8) Horse stealing is a felony, punishable by fine of $500 and ten years' separate or solitary confinement at labor.

LIBELS.

"If any person shall write, print, publish or exhibit any malicious or defamatory libel, tending either to blacken the memory of one who is dead, or the reputation of one who is alive, and thereby exposing him to public hatred, contempt or ridicule," it is criminal libel, a misdemeanor, punishable by fine of $1,000 and twelve months' imprisonment.

Under other acts it is likewise a misdemeanor to secure the publication in any periodical of libelous matter, and to send to another anonymous, libelous communications.

LOTTERIES.

All lotteries are forbidden and made punishable by fine of $1,000 and one year's separate or solitary confinement at labor, and for selling tickets in or advertising lotteries the imprisonment is two years.

MALICIOUS MISCHIEF.

Malicious mischief by explosives, and malicious mischief to railroads, both under the old act and under the Act of May 9, 1913, P. L. 186, are felonies, punishable by penalties from $500 and three years' imprisonment, to $5,000 and ten years' imprisonment, and under the Act of 1913, if death is caused by the malicious mischief, by the death penalty.

There are a great many acts of Assembly making malicious mischief of different kinds misdemeanors. The penalties range from a small fine recoverable by process of summary conviction to fines of $1,000 and three years' imprisonment. The details of these numerous acts not here given.

MAYHEM.

"If any person, on purpose, and of malice aforethought, by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose, ear or lip, or cut off or disable any limb or

member of another, or brand another with intention in so doing to maim or disfigure such person," * * * it is a misdemeanor, punishable by fine of $1,000, of which three-fourths goes to the party grieved, and five years' imprisonment.

MURDER AND MANSLAUGHTER.

All murder by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or which shall be committed in the perpetration of any arson, rape, robbery, or burglary, is murder of the first degree, and all other murder is murder in the second degree. The punishment for murder in the first degree is fixed by the Act of June 19, 1913, P. L. 528, at death "inflicted by causing to pass through the body of the convict a current of electricity of intensity sufficient to cause death, and the application of such current must be continued until such convict is dead." Punishment for second degree murder, for the first offence, is imprisonment by separate or solitary confinement for twenty years, and for the second offence, for life.

The punishment for voluntary manslaughter, which is the unlawful killing of another, without malice, in sudden heat, is a fine of $1,000 and twelve years' separate or solitary confinement at labor; for involuntary manslaughter, happening in consequence of an unlawful act, is a fine of $1,000 and two years' imprisonment.

NUISANCES.

Maintaining any public or common nuisance is a misdemeanor, punishable by fine and imprisonment in the discretion of the court under the circumstances of the case; and the court may order the same abated at the cost of the defendant.

OBSCENITY.

Selling or exhibiting lewd, indecent and obscene pictures, exhibiting in any public place indecent pictures representing the human form in a nude or semi-nude condition, advertising immoral or lewd shows, giving away, lending or showing to minors any printed matter giving accounts of criminal deeds, and stories of bloodshed, lust or crime, drawing or posting indecent pictures or writings in public places, making, publishing or distributing indecent or obscene literature or pictures or other articles, and similar acts and offences, are all misdemeanors, punishable by fine and imprisonment in various amounts. Nothing in these acts shall, however, interfere with purely scientific works written on the subject of sexual physiology, or works of art.

Under the Act of April 13, 1911, P. L. 64, it is a misdemeanor for any person to give or participate in, or for the owner of any building, tent, or premises, to permit any exhibition "of a lascivious, sacriligious, obscene, indecent, or of an immoral nature and character, or such as might tend to corrupt morals;" penalty, fine of $1,000 or one year's imprisonment in jail.

PANDERING.

(1) The Act of June 7, 1911, P. L. 698, provides that any person procuring or inducing a female to become a prostitute, or who, by threats, fraud or duress, shall inveigle any female person to enter any place in which prostitution is practiced, shall be guilty of pandering. Penalty, ten years' solitary confinement at labor.

Section 2 imposes the same penalty on one who places his wife in a house of prostitution, and section 3 applies the same penalty to one who takes her earnings from any woman engaged in prostitution. Section 4 forbids holding a female in a disorderly house because of debts she has contracted. By section 5 transporting a female into or across the state, with intent to make her a prostitute is forbidden under the same penalty. Under section 6 the defendant may be prosecuted in any county in which any part of the crime was committed.

(2) The Federal Act of June 25, 1910, 36 Statutes 825, known as the "Mann White Slave Law," which is to be found in the pamphlet of Immigration Laws, issued by the U. S. Department of Labor, provides that any person who shall knowingly transport, in interstate or foreign commerce, or shall induce or entice, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, shall be guilty of a felony, punishable by fine of $5,000 and five years' imprisonment. If the girl is under eighteen, the above penalties are doubled. So far as the suppression of the white slave traffic with foreign countries is concerned, the enforcement of the law is placed in the hands of the Commissioner of Immigration.

PERJURY.

Perjury is a misdemeanor, punishable by fine of $500 and seven years' separate or solitary confinement at labor; and such person "shall be forever disqualified from being a witness in any matter in controversy."

PROFESSIONAL THIEVES.

Professional thieves, burglars, or pickpockets arrested in a public place where he was attending for an unlawful purpose, may be committed to jail for ninety days and required by the magistrate to give security for good behavior for one year.

RAPE.

"If any person shall have unlawful carnal knowledge of a woman, forcibly and against her will, or who, being of the age of sixteen years and upwards, shall unlawfully and carnally know and abuse any woman-child under the age of sixteen years with or without her consent, such person shall be adjudged guilty of felonious rape," punishable by fine of $1,000 and separate or solitary confinement at labor, or by simple imprisonment, for fifteen years; provided, that if the girl under sixteen consented and she was not of good repute, the conviction shall be for fornication only.

RECEIVING STOLEN GOODS.

Receiving stolen goods, moneys or securities, the stealing of which is larceny, knowing the same to be stolen, is a felony, punishable in the same way as the larceny.

ROBBERY.

(1) See larceny from the person.

(2) Robbery by a person armed with an offensive weapon, or by beating or by threats to accuse of an infamous crime, is a felony, punishable by fine of $1,000 and ten years' separate or solitary confinement at labor.

(3) Robbing of bank vaults by force or drugging is a felony, punishable by fine of $10,000 and twenty years' imprisonment at hard labor.

(4) Train robbery is punishable by confinement in the penitentiary for not less than fifteen years.

SECOND CONVICTIONS.

For second convictions the term of possible imprisonment is doubled in each case.

SEDUCTION.

"The seduction of any female of good repute, under twenty-one years of age, with illicit connection under promise of marriage" is a misdemeanor, punishable by fine of $5000 and three years' imprisonment, with or without labor; provided, "That the promise of marriage shall not be deemed established unless the testimony of the female seduced is corroborated by other evidence, either circumstantial or positive."

SALE OF COCAINE.

By the Act of May 8, 1909, P. L. 487, selling or giving away cocaine or alpha or beta eucaine, without a proper prescription, or giving to any person known to be an habitual user of such drugs any such prescription, is a misdemeanor, punishable by fine of $500 and two years' imprisonment. Having such drugs in one's possession, not being a doctor or druggist, is a misdemeanor, punishable by fine of $100 and six months' imprisonment.

SODOMY.

Sodomy and buggery are felonies, punishable by fine of $1000 and ten years' separate or solitary confinement. Attempting or soliciting to commit sodomy or buggery is a misdemeanor, punishable by fine of $300 and three years' imprisonment.

Any sexual intercourse with another person, or with a beast, in any manner contrary to nature, constitutes the crime of sodomy or buggery.

SURETY OF THE PEACE.

Under the Act of March 18, 1909, P. L. 48, the alderman, magistrate or justice of the peace before whom information is made for surety of

the peace, under the Act of March 31, 1860, P. L. 427, § 6 (Criminal Procedure 14), must enter into a full hearing of the facts and then only bind over to court when satisfied that the danger to the prosecutor is actual. If the danger is not actual, the alderman, magistrate or justice may place the costs either upon the prosecutor, the defendant, or both, and commit such person to jail until they are paid, or he is discharged under the insolvency laws.

If the danger was actual, the defendant is bound over to court immediately (Act of April 27, 1909, P. L. 260), and after hearing in Quarter Sessions Court he may be bound over by such Court in such sum, with good and sufficient sureties, as to the Court may seem proper, to be of good behavior and keep the peace towards all citizens.

THREATS.

(1) Sending writings to another accusing him of any crime or misdemeanor, with intent to extort money, or writing letters threatening another with murder or arson of his property, is a misdemeanor, punishable by fine of $1,000 and three years' separate or solitary confinement at labor.

(2) By the Act of May 19, 1913, P. L. 222, attempting to extort money by means of threats to kidnap is a felony, punishable by fine of $1000, and fifteen years' separate or solitary confinement at labor.

WHITE SLAVE LAW.

See Pandering.

WITNESSES.

Dissuading, hindering or preventing any witness from attending and testifying is a misdemeanor, punishable by fine of $500 and one year's imprisonment.

2. CRIMINAL PROCEDURE.

The regular method of beginning the prosecution for any crime is by making information thereof before any alderman, magistrate or justice of the peace. This may be done by any person having knowledge of the crime, either of his own knowledge or upon information and belief. The alderman, magistrate or justice of the peace will thereupon issue his warrant, addressed to a constable, for the arrest of the defendant, and it becomes the duty of the officer to make the arrest.

Upon his arrest, the defendant has the right, in bailable offences, to be taken before the nearest magistrate, alderman or justice of the peace and give bail for a hearing before the magistrate, alderman or justice issuing the warrant. At the hearing the defendant or his counsel may cross-examine witnesses, but cannot produce any. The prosecution must make out a *prima facie* case or the defendant will be discharged. If a *prima facie* case is made out, the defendant is held for court and bail fixed by the magistrate, alderman or justice of the peace. This hearing may be waived by agreement and bail given for court. In default of

bail, the defendant must go to jail, unless bail is waived by the prosecutor and the defendant is allowed to go on his own recognizance.

In non-support cases, the magistrate, alderman or justice of the peace is authorized to send the case to court without a hearing, the whole proceeding coming up immediately before the court for decision.

After the ordinary criminal case is sent to court, the next step is the indictment by the grand jury. After hearing the witnesses for the prosecution, the grand jury may either ignore the bill or find a true bill.

If the defendant is indicted, the case, after plea being entered, is then ready for trial before a jury. Then, for the first time, both sides produce witnesses, and the jury decides the facts after full hearing.

After conviction, or after a plea of guilty or of nolo contendere, the court imposes the sentence, which, in general, may be either a fine or imprisonment, or both, in any amount less than the punishments named for the different crimes. Under the probation and parole laws, convicted persons may be allowed to go at large before serving their full term.

3. SEARCH WARRANTS.

The Common Law right to issue search warrants still exists in Pennsylvania, and upon proper information made they may be issued by any alderman, magistrate or justice of the peace. Article I, section 8, of the Constitution of Pennsylvania requires search warrants to describe the persons or things to be searched for "as nearly as may be" and forbids their issue "without probable cause, supported by oath or affirmation, subscribed to by the affiant." A description as "a quantity of jewelry and other personal effects lately by some one feloniously stolen," was held to be sufficient in the case of Moore v. Coxe, 10 W. N. C. 135, 29 Pitts. L. J. 70.

Section 5 of the Criminal Procedure Act of March 31, 1860, P. L. 427 (Criminal Procedure 153), prescribes the method of finding the owner of stolen goods found by search warrants. Under that act, the person in whose possession such goods are found may retain possession of them until trial, upon giving sufficient security to produce them at the trial. Comm. v. Thompson, 9 D. R. 559, 24 Pa. C. C. 179.

4. EXTRADITION.

Article IV, section 2, of the Constitution of the United States provides that where a person is charged in one state with "treason, felony, or other crime" and shall "flee from justice and be found in another state," he shall be delivered up on demand of the first state and removed to such state. This section of the Constitution was carried into effect by the Act of Congress of 1793, being Sec. 5278 of the Revised Statutes.

It has repeatedly been held, and is the law, that there may be extradition for misdemeanors, and that the crime charged need only be a crime in the demanding state, not in the state of asylum. There can therefore be extradition to Pennsylvania from any other state in the United States, for such a crime as desertion and non-support, which is a misdemeanor by Act of 1903, whether the state of asylum makes it a crime or not.

Where extradition is desired in any case, proper information should be made and one or more affidavits showing the facts should be prepared, and application be made to the District Attorney of the County, the information, warrant and affidavits to attach to the extradition papers being all prepared and signed and sworn to in duplicate. If the case is a proper one, the District Attorney should ask for the fugitive's arrest in the state of asylum and should request the Governor, in regular form, for a requisition upon the Governor of the state of asylum. That Governor should then issue a warrant and the District Attorney should send an agent to bring the fugitive back. Under the Act of March 31, 1860, P. L. 427, § 1 (Criminal Procedure 1), the reasonable expenses of bringing the fugitive back for trial "shall be paid out of the treasury of the county where the offence is charged to have been committed."

The duty of the Governor of the state of asylum is very clearly laid down in the case of Com. v. Hare (1908), 36 Pa. Super. Ct. 125, in which it is said that the duty of the Governor is "absolute" when the papers are in proper form; that the constitutional provision for extradition is in the nature of a treaty between the states to which the executive of each is "bound to give effect."

It is to be noted that the foregoing extradition law does not apply when a defendant forfeits his bail and it is desired by the bondsman to bring him back from another state. The bondsman may arrest him anywhere and bring him back without any extradition proceedings. The bondsman should take out a "bail-piece," and he may thereupon authorize any other person to arrest and return the defendant. There is both Federal and State authority for this, the cases being collected in the case of In re Von der Ahe (1898), 85 Fed. Rep. 959, reported also in 20 Pa. C. C. 305, 7 D. R. 131 and 45 P. L. J. 267.

5. ADULT PROBATION.

The Act of May 10, 1909, P. L. 495, as re-enacted and supplemented by the Act of June 19, 1911, P. L. 1055, provides a system of parole and probation for persons convicted of crime. The court may suspend sentence and place the defendant on probation on such conditions as it may see fit after the first conviction of any crime except the following: murder, administering poison, kidnapping, incest, sodomy, buggery, rape, assault and battery with intent to ravish, arson, robbery or burglary, most of which crimes are penitentiary offences. If any person on probation shall violate the terms thereof, he shall be subject to arrest in "the same manner as in the case of an escaped convict." It is therefore a misdemeanor to break the terms of probation, as escaped convicts are subject to arrest under the Crimes Act of March 31, 1860, P. L. 382, § 3 (Crimes 130), making an escape a misdemeanor punishable by additional imprisonment. The right to charge the defendant with a new crime often becomes important when a defendant violates the terms of his probation and then goes to another state, making extradition necessary.

When a defendant is sentenced to the penitentiary, the act provides for a maximum and minimum sentence by the court, and after serving

the minimum period the convict may be released on parole by the Governor upon recommendation of the Board of Inspectors of the penitentiary. By the supplement of June 19, 1913, P. L. 532, any convict sentenced to the penitentiary prior to July 1, 1911, who has served one-third of his sentence, may be paroled in the same way.

The act also provides for the appointment of a probation officer by the court.

The Act of June 19, 1911, P. L. 1059, permits the court to release on parole any person confined in the "county jail or workhouse."

Under the Act of May 11, 1911, P. L. 273, as amended by the Act of May 23, 1913, P. L. 335, the court is empowered to release on parole any person acquitted by the jury on the ground of insanity.

CHAPTER VIII.

COLLECTION OF DEBTS.

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1. WORKMEN'S COMPENSATION, IN GENERAL.

The common law still prevails in Pennsylvania in regard to workmen who are injured in the course of their employment. This means that an employee, in order to recover from his employer, must prove that the employer was guilty of negligence which caused the injury, and he must present a case which is free from each and all of the following three defences:

(1) Contributory negligence, which means that the carelessness of the employee was partly the cause of the accident. If such was the case, the employer is entirely relieved from liability, although his own negligence was largely responsible.

(2) Negligence of a fellow servant, which means that the carelessness of a fellow employee was responsible, in which case the injured person is supposed to sue the fellow employee instead of the employer, although he had no voice in choosing such fellow employee.

(3) Risk of the trade, which means that risks which necessarily accompany a dangerous business are placed upon the employee instead of being made a condition and risk of the business itself.

Many states have abolished these defenses and have placed most of the cost of industrial accidents upon the business and such laws have been proposed in Pennsylvania, but not yet passed. As the rules of the common law are very technical, each case should be presented to an attorney for his advice and guidance. The statute of limitation in such cases is two years.

2. FEDERAL EMPLOYERS' LIABILITY ACT.

The Act of Congress of June 11, 1906, 34 Stat. at Large 232c, 3073, as supplemented by the Act of April 22, 1908, and amended April 5, 1910,

was passed for the further protection of the employees of interstate railroads. For such employees, the defences of contributory negligence and risk of the business are absolutely abolished when the railroad is breaking any statute and that contributes to any extent to the accident. The defence of negligence of a fellow servant is absolutely abolished. When there is contributory negligence, it goes merely to reduce damages, and does not conclude the action.

3. CLAIMS FOR WAGES.

The Act of May 12, 1891, P. L. 54 (Wages 1), provides that claims for wages up to $200 earned within six months shall have priority out of the proceeds of the sale of any property, real or personal, of the debtor, but such claims, in order to be a lien on real estate, must be filed within three months in the same manner as mechanics' liens are filed.

The common use of this law is in obtaining for the laborer priority in case of constable's or sheriff's sales of any property of the debtor. In such cases all that is necessary is to hand to the constable or sheriff before the sale a written statement of the wage claim. It then becomes the duty of the officer to pay the same out of the proceeds of sale. If the execution creditor stops the sale, the wage claimant cannot insist on the sale being continued. Wilkinson v. Patton, 162 Pa. 12; Mettfett v. Mohn, 171 Pa. 395. If that happens, the wage claimant must bring suit and get a judgment on his claim and issue execution thereon against the employer's property.

A wage claim takes preference of all other claims except mortgages and judgments entered before the labor was performed; and by the Act of May 8, 1874, P. L. 120 (Wages 5), wage claims have priority over coal lease mortgages, and by the Act of June 12, 1878, P. L. 207 (Wages 10), they have priority over rent claims. In a judgment for wages for $100 or less there is no stay of execution, and when this judgment is for no more than $50 the exemption laws do not apply. When a judgment for wages is rendered by any magistrate, alderman or justice of the peace, the defendant is not entitled to an appeal until he enters bond with surety for the payment of the amount that shall be finally recovered.

4. ATTACHMENT OF WAGES.

There is no general law in Pennsylvania permitting the attachment of wages for payment of a judgment; nor is an assignment of future wages valid unless it is accepted in writing by the employer. But by the Act of May 8, 1876, P. L. 139 (Hotels, Inns and Restaurants 30), as last amended by the Act of May 1, 1913, P. L. 132, keepers of hotels, inns, boarding houses and lodging houses may begin suit before magistrates, aldermen or justices of the peace by attaching wages already due or owing to recover four weeks' board or lodging, or both; and it thereupon becomes the duty of the employer to hold back the wages then due until twenty days after judgment, and if no appeal has been taken by the defendant, then to pay debt, interest and costs to the magistrate and the balance to the workman. The Act of April 4, 1889, P. L. 23 (Hotels,

Inns and Restaurants 31), provides that the defendant in such a proceeding shall not be entitled to any exemption.

This act has recently been held unconstitutional by the Court of Common Pleas of Allegheny County. Whether this view will be sustained by the Supreme Court is uncertain.

By the Act of May 23, 1907, P. L. 201 (Wages 19a to 19d), wages of $75 or less owing a deceased employee at the time of his death may be paid out by the employer without requiring the issuing of letters of administration. Such payment is to be made to the wife, children, father or mother, sister or brother, in the order named; if none of these are left surviving, then payment may be made to the following creditors, each to receive his pro rata share: undertaker, physician, boarding-house keeper and nurse.

By the Act of June 4, 1913, P. L. 405, an assignment of future wages to secure a loan, when made by a married man, must be accompanied by the written consent of his wife when accepted in writing by the employer, in order to be valid. This act has been held unconstitutional by the Court of Quarter Sessions of Philadelphia County. See the Act relating to Loan Companies, under "Miscellaneous."

By the Act of April 15, 1913, P. L. 72, which is an amendment to the Non-support Law of 1867, it has been held that an order of support may be collected by execution attachment against wages. See Desertion and Non-Support, 1.

5. MECHANICS' LIENS.

Under the Mechanics' Lien Law of June 4, 1901, P. L. 431, and the amendments and supplements thereto, any person who has furnished labor or materials to a building under a contract with the owner or with one who dealt with the owner has the right (except in the case of no-lien building contracts which are properly on file in the Prothonotary's Office) to file a lien against the building for his own protection. When a lien is intended to be filed by a "sub-contractor" or one who dealt with a "contractor" and not with the owner, he must give notice of such intention to the owner within three months after the last work was done or materials furnished, if the building is new, and within forty-five days if the building is old and the work consisted of repairs or alterations. In the case of new buildings the lien must be filed within six months, and in the case of alterations and repairs within three months after the last labor or material was furnished.

The various notices and papers required by this act and the decisions under it are very technical and must be carefully prepared in each case, so when the existence of a right to lien is suspected an attorney should be consulted.

6. LANDLORD AND TENANT.

(1) DISTRESS FOR RENT IN ARREAR.

Under the Act of March 21, 1772 (Landlord and Tenant 1), a landlord or his agent may distrain for rent due him by issuing his warrant

to a constable, who thereby is authorized to take possession of the goods and chattels on the premises and hold them for the satisfaction of the rent claim. After five days the goods must be appraised and after an additional six days' public notice they may be sold.

Under the Act of April 9, 1849, P. L. 533 (Execution 18), the tenant has the advantage of $300 exemption; but the benefit of exemption may be waived by agreement; therefore, if there is a signed lease it is probable that exemption is waived, very few lease forms being used which do not contain such a waiver. (For a general consideration of the law relating to exemptions, see "Exemptions from Execution.")

The constable may distrain upon any goods found upon the premises, even the goods of a stranger (subject, of course, to the exemption laws), except the following classes:

(1) Goods held by the tenant in storage or on commission for sale, this exception being made to benefit trade.

(2) Property of a boarder, so far as it is in actual use by him.

(3) Goods under the custody of the law, either by virtue of an execution or attachment.

The constable may also distrain upon goods of the tenant which have been fraudulently removed for the purpose of preventing a distraint for rent, such distraint being within thirty days of such removal. This right, however, does not extend to the goods of a stranger, and a tenant's wife is a stranger in this respect. Also, if the goods have been sold to an innocent purchaser, there is no right of distraint.

If a landlord distrains and sells goods when there is no rent in arrear, the owner of the goods may sue him in trespass and recover double the value of the goods thus taken and sold.

If a tenant or other person "rescues" goods after a distraint, that is, takes possession of them and removes them from the custody of the constable, the person injured thereby may recover treble damages from the offender, or from the owner if he profited thereby.

When a tenant has an account against his landlord which the latter refuses to allow, the tenant may take the case before a justice of the peace (the rent claimed being less than $300), and the landlord may be compelled to defalcate or set off the amount of his indebtedness to the tenant, in accordance with the Act of March 20, 1810, 5 Sm. L. 162 (Justices of the Peace 43). If, after the decision of the justice, the landlord proceeds by landlord's warrant and distrains and sells more than to the amount of the balance found by the justice, then the landlord forfeits to the tenant four times the amount of the sum thus illegally collected.

(2) PRIORITY OF RENT CLAIMS IN EXECUTION.

Where a tenant's goods are levied upon by a third person, under the Act of June 16, 1836, P. L. 755, § 83 (Landlord and Tenant 17), the landlord has a priority to the extent of one year's rent; and there can be no stay of proceedings by the plaintiff unless the written consent of the landlord is first had and obtained.

(3) LIABILITY OF TENANTS FOR TAXES.

The Act of April 3, 1804, 4 Smith's Laws 201 (Taxation 288), provides that every tenant shall be liable to pay all taxes becoming due on the leased premises during his possession; and, having paid them, he may recover from his landlord or keep the amount out of the rent.

By the Act of April 15, 1834, P. L. 509 (Taxation 287), the tenant's goods may be levied on for taxes assessed during his possession and remaining unpaid.

(4) SUIT FOR RECOVERY OF POSSESSION.

Justices of the peace, aldermen and magistrates have jurisdiction under several acts for assisting a landlord to recover possession of rented premises, both at the expiration of the term and at any time for non-payment of rent. In the case of expiration of the term, three months' notice to deliver up possession is required, except when the lease is for less than one year, when 30 days' notice is sufficient. In the case of non-payment of rent, fifteen days' notice is sufficient, but the tenant may retain possession and end the proceedings to dispossess at any time by paying the rent in arrears.

If the tenant is injured by the decision of the justice, he may appeal to common pleas court, and in Philadelphia such appeal will act as a supersedeas in all cases; elsewhere in the State it is a supersedeas except in cases of expiration of lease, where the tenant must deliver up possession, but has a right of action for damages in case he wins his appeal.

7. EXEMPTION FROM EXECUTION.

The general exemption law of this State is the Act of April 9, 1849, P. L. 533 (Execution 18), under which property to the amount of $300, "exclusive of all wearing apparel of the defendant and his family, and all Bibles and school books in use in the family (which shall remain exempted as heretofore)," shall be exempt from levy and sale on execution upon a contract debt or by distress for rent. Exemption may be claimed out of real estate, as well as personal property. This exemption does not apply in the case of a suit for damages for a tort, but only upon a contract debt. It may be waived in advance by the debtor, and this is commonly the case when the debt arises upon a judgment note, a judgment bond or a lease for real estate. The printed forms of practically all instruments which contain a confession of judgment clause contain also a waiver of exemption laws, and such waiver in advance is recognized by the courts of this State and is valid. Also, there is no exemption in the case of a suit for taxes.

The courts have held that a debtor upon a forfeited recognizance cannot claim exemption; so that when judgment is had even against the surety upon such an instrument as a bond given by a wife deserter in a non-support case, the defendant cannot claim any exemption.

The demand for exemption must be made promptly, whereupon the sheriff, constable or other officer making the levy summons three disin-

terested appraisers to appraise the property chosen by the debtor, who may set aside $300 worth, and the sale proceeds as to the balance of the property levied upon.

A married woman is entitled to $300 exemption in a case where her property was levied upon for rent owing by her husband, even although he had waived exemption in signing the lease.

Under the Acts of April 17, 1869, P. L. 69, and March 4, 1870, P. L. 35 (Execution 24, 25), sewing machines of seamstresses and of private families are exempt from levy and sale upon execution or distress for rent; but this does not apply to persons who keep sewing machines for sale or hire. This does not prevent the landlord levying upon a sewing machine which is leased to his tenant upon a distress for rent.

By the Act of May 13, 1876, P. L. 171 (Execution 26), all leased pianos, melodeons and organs are exempt from execution and from distress for rent, provided that so far as rent is concerned previous notice of ownership by another than the tenant must be given to the landlord or his agent.

In the same way, the Act of June 25, 1895, P. L. 282 (Landlord and Tenant 7), exempts leased sewing machines and typewriters, and the Act of April 28, 1899, P. L. 117 (Landlord and Tenant 8), as supplemented by the Act of May 3, 1909, P. L. 423, exempts leased or conditionally sold soda-water apparatus and appurtenances therto, it being sufficient notice in the latter case if the name and address of the owner, lessor or conditional vendor be marked on or attached to said apparatus.

By the Act of May 3, 1909, P. L. 407, all leased electric motors, electric fans, or dynamos are exempt from execution or distress for rent, provided the owners give notice of their ownership to the landlord within ten days after such apparatus is placed upon the demised premises.

Under the Act of March 4, 1887, P. L. 4 (Execution 27), no exemption is allowed upon a judgment of $100 or less, obtained for wages for manual labor, and under the Act of April 4, 1889, P. L. 23 (Execution 29), no exemption is allowed upon a judgment for board for four weeks or less.

8. STAY OF EXECUTION.

The period for which there may be a stay of execution in any case depends on whether the judgment was taken before a justice of the peace or alderman, or was taken in some other court; and in either case it depends on the amount of the judgment.

When the judgment is before an alderman or justice of the peace, there may be stay of execution (except in certain general classes of cases hereafter mentioned) for the following periods, under the Act of June 24, 1885, P. L. 158 (Justices of the Peace 148), such periods to be computed from the day judgment is entered:

On judgments of $5.33 or less, none.
On judgments above $5.33 to $20, 3 months.
On judgments above $20 to $60, 6 months.
On judgments above $60 to $300, 9 months.

Such stay may be had either where the defendant is a freeholder or where he enters bail absolute with one or more sufficient sureties, in double the amount of debt, interest and costs. The act expressly excepts judgments for wages of manual labor from its operation.

When the judgment is in any other court than the above, stay of execution is governed by the Act of June 16, 1836, P. L. 755 (Execution 30 et seq.). This is the general act applying to court judgments, and in it certain classes of cases are excepted from its operation, as follows:

(1) Actions of "debt," meaning the technical common law action by such name.

(2) Actions of scire facias upon judgments, and upon mortgages.

(3) As the act is limited to "actions instituted by writ," there can be no stay upon judgments entered on a warrant of attorney, or by confession.

(4) As the act is limited to actions "for the recovery of money due by contract or of damages arising from a breach of contract," there can be no stay when the action is for damages for a tort, or when the action is upon an official recognizance, as, for instance, a bond given under an Act of Assembly in a non-support proceeding.

In those cases which are within the act, if the defendant owns real estate, without encumbrances, worth the amount of the judgment, or if he gives bond with sureties within thirty days after judgment is entered for double the amount of debt, interest and costs, he may have a stay of execution a sfollows:

When sum recovered is not more than $200, six months.

When sum recovered is above $200 to $500, nine months.

When sum recovered is above $500, twelve months.

The date from which these periods shall be calculated is the "return day" of the writ, not the later day upon which judgment was entered. Therefore if court delays cause the entry of judgment to be more than the above periods after the return day of the writ, there can be no stay of execution.

The Act of May 14, 1874, P. L. 145 (Execution 39), provides that in the case of judgments for $100 or less for wages of manual labor, no stay of execution shall be allowed.

9. IMPRISONMENT FOR DEBT.

In general, under the Act of July 12, 1842, P. L. 339, § 1 (Imprisonment for Debt 1, and Practice 69), imprisonment for civil indebtedness is abolished in Pennsylvania, but this act does not apply to actions of tort, that is, to civil wrongs not based on some contract right. As to these, there may still be arrest and imprisonment. The action may be begun by an arrest on a capias, and holding for bail, or the arrest may be made at any stage of the proceedings. The practice in this particular is governed by the Act of June 13, 1836, P. L. 568 (Practice 37 to 62), which applies to all trespass cases except certain exempted classes of persons as well as to those assumpsit (contract) cases which are excepted

from the operation of the above Act of 1842. The exempted classes are as follows:

(1) Under the Act of March 20, 1724, 1 Sm. L. 164 (Practice 63 to 66), freeholders owning fifty acres of land, or land with a dwelling house worth "fifty pounds current money of America," or unimproved land to the same amount.

(2) Under the Act of February 8, 1819, 7 Sm. L. 150 (Practce 67), no female shall be arrested or imprisoned for debt.

(3) Under the Act of June 13, 1836, P. L. 568, § 6 (Practice 68), no executor or person in a representative character, nor any person for a debt of less than $5.34.

The above Act of 1842 abolishing imprisonment for debt excepts from its operation the following classes of cases, in which there may still be imprisonment:

(1) Proceedings as for contempt to enforce civil remedies.

(2) Actions for fines or penalties.

(3) Actions on promises to marry.

(4) Actions for moneys collected by any public officer.

(5) Actions for misconduct or neglect in office.

(6) Actions for misconduct or neglect in any professional employment.

Even in the cases in which, under section one of the above Act of 1842, imprisonment is not, in general, allowed, the remaining twenty-one sections of that Act (Practice 70 to 88) provide a method of making arrests under certain specified circumstances. This method is by means of what is known as a "bench warrant," namely, a warrant issued directly by the judge upon proper affidavit, commanding the defendant to be arrested and brought forthwith before the judge on the bench. In order to obtain a bench warrant, the affidavits must establish to the satisfaction of the judge one or more of the following particulars:

I. That the party is about to remove any of his property out of the jurisdiction with intent to defraud his creditors.

II. That he has property which he fraudulently conceals.

III. That he has stocks or other property which he unjustly refuses to apply to the payment of any judgment rendered against him in favor of the complainant.

IV. That he has assigned, removed or disposed of, or is about to dispose of any of his property, with intent to defraud his creditors.

V. That he has fraudulently contracted the debt respecting which suit is brought.

After arrest on a bench warrant the defendant may give security and obtain his discharge; or he may obtain his discharge under the insolvency laws, after remaining in jail three months, and turning over all his property. Under the Act of March 31, 1860, P. L. 382, Sections 131 and 132 (Imprisonment for Debt 2 and 3), persons who are guilty of embezzlement or concealment of property, or whose insolvency was caused by gambling, it is the duty of the court to commit for trial, and for the first two offences they may be punished by seven years' separate and solitary confinement at labor, and for the third offence by three years' imprisonment.

CHAPTER IX.

LABOR.

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1. CHILD LABOR.

The general child labor law of Pennsylvania is the Act of April 29, 1909, P. L. 283, which superseded and replaced most prior legislation on this subject. It was amended by the Acts of June 9, 1911, P. L. 832, April 15, 1913, P. L. 69 and July 19, 1913, P. L. 862. The matter of child labor in or about coal mines is covered by a separate act of the same year, which will be considered after the general act.

The general act, section 1, provides that "no minor under the age of eighteen years, except as hereinafter provided, shall be employed, permitted, or suffered to work in, about, or for any factory, workshop, rolling-mill, sawmill, quarry, laundry, store; mercantile, printing or binding establishment; dock, wharf; vessel or boat engaged in lake or river navigation or commerce, railroad, in the erection or repair of electric wires, business office, telegraph office, telephone office, stable, garage, hotel, restaurant, bootblack stand, or the transmission of newspapers, messages, or merchandise."

Section 2 provides that male minors over 18 may be employed in any legal work; but none under 18 shall be employed "in or about blast-furnaces, docks, wharves, in quarries, in the outside erection and repair of electric wires; in the running or management of elevators, lifts or hoisting machines; in oiling hazardous and dangerous machinery, in motion; at switch-tending, gate-tending, track repairing; as brakeman, fireman, engineers, motormen, conductors, upon railroads; as pilots, firemen or engineers upon boats or vessels engaged in the transportation of passengers or merchandise, in or about establishments wherein nitroglycerine, dynamite, dualin, gun-cotton, gunpowder, or other high or dangerous explosive is manufactured, compounded or stored."

Section 3 provides that minors over 16 may be employed in the manufacture of white lead, red lead, paints, phosphorus, phosphorus matches, poisonous acids, or for the manufacture or stripping of tobacco or cigars, with the proviso that minors between 14 and 16 may also be employed when it is proved to the satisfaction of the Chief Factory Inspector that there is no danger or menace to the health or safety of such employees.

Under Section 4, minors over 14, who can read and write English, may be employed "in or for mercantile establishments, stores; telegraph, telephone, or other business offices; hotels, restaurants; or in any factory, workshop, rolling-mills, or other establishment having proper sanitation; or in any factory, workshop, rolling-mills, or other establishment having proper sanitation and proper ventilation, and in which power machinery is not used, or, if used, that the same, and all other dangerous appliances used, are kept securely and properly safeguarded.

Section 5 provides that no boy under 16 and no girl under 18 shall be permitted to work in the industries named in sections 3 and 4 more than 10 hours a day, "except when a different apportionment of the hours of labor is made for the sole purpose of making a shorter work-day for one day in the week." There must be at least 45 minutes allowed for lunch, and the hours of labor shall not exceed 58 in any one week. No such boy or girl shall be employed between 9 P. M. and 6 A. M.

Section 6, which is known as the "glass-house exception," provides that where the usual process of manufacture, or the nature of the business named in section four of this act, is of a kind that customarily necessitates a continuous day and night employment, male minors not under the age of fourteen years may be employed day or night, or partly by day and partly by night; but said employment shall not exceed nine hours during any twenty-four hours for minors under the age of sixteen years."

Section 7 requires the employer to procure and keep on file an employment certificate, and to keep two complete lists of all minors under 16, one list to be on file in the office and the other posted in the departments where minors are employed. These employment certificates belong to the minors and shall be returned to them when they leave the employment.

Section 8 provides that employment certificates shall be issued by the school authorities in the various school districts. Section 9 prescribes the form of such certificates, and section 10 makes it the duty of the Superintendent to prepare these forms and have them printed and distributed to the various authorities authorized to issue them.

Section 11 provides a penalty for violation of the act of $10 to $25 for a first offence, or 10 days in jail, and for a second offence $50 and 90 days' imprisonment, at the discretion of the court. This act is now enforceable by the Department of Labor and Industry.

The Act of May 1, 1909, P. L. 375, as amended by the Act of June 15, 1911, P. L. 983, applying to coal mines, provides that no minor under 14 years shall be employed in or about any coal-breaker or washery, or in or about the outside workings of any coal mine, and that no minor under 16 years shall work more than 10 hours a day except to make a shorter work-day one day a week, nor more than 58 hours in any one week. They shall be allowed at least 45 minutes for their noonday meal and shall not work between 9 P. M. and 6 A. M.

No minor under 16 years shall be employed in any coal mine.

Whenever a minor under 16 years of age is employed, an employment certificate must be procured from the school authorities, and when such a certificate is demanded by the Department of Mines for any minor claiming to be over 16 years, but who is suspected of being under 16

years, the same must be procured within 30 days or the employee discharged.

Former legislation forbade the employment of girls or women of any age in or about coal mines, except at office work. See Women's Labor.

2. WOMEN'S LABOR.

The Act of July 25, 1913, P. L. 1024, regulates the employment of women in industries. It does not apply to work in private homes and farming, and other statutes, namely, the Act of June 30, 1885, P. L. 202, and the Act of May 13, 1903, P. L. 359 (Labor Regulations 1 and 2), forbid the employment of girls or women of any age in or about coal mines, except in clerical positions.

The Act of 1913 forbids the employment of any woman "for more than six days in any one week, or more than fifty-four hours in any one week, or more than ten hours in any one day." There are, however, several exceptions to these requirements, as follows:

(1) When any week contains a legal holiday, female employees may be required to work overtime on three days of the week, but not more than two hours overtime on any one of the three days, nor a total of more than 54 hours in the whole week.

(2) When time is lost on account of alterations, repairs or accidents, such time may be made up by working overtime two hours a day, but the total of fifty-four hours must not be exceeded.

(3) The restrictions as to hours do not apply "to females engaged in the canning of fruit and vegetable products."

(4) None of the restrictions above mentioned apply to the work of nurses in hospitals.

Section 4 forbids the employment of any female "in any manufacturing establishment" before 6 A. M. or after 10 P. M., but this does not apply to managers, superintendents, or persons doing clerical or stenographic work.

Section 5 forbids the employment of girls under twenty-one in any establishment before 6 A. M. or after 9 P. M., except that this section does not apply to girls over eighteen employed as telephone operators.

Section 6 fixes the mid-day meal period at not less than forty-five minutes, except when the hours of labor are less than eight a day, it may be reduced to thirty minutes. Employees shall not be required to remain in the work-rooms during the time allowed for meals.

Section 7 forbids more than six hours' continuous work without a rest period of at least forty-five minutes, which may be reduced to thirty minutes if the work day is reduced to less than eight hours.

Section 8 requires employers to furnish suitable seats and permit their reasonable use during work hours, not fewer than one seat for every three females to be furnished.

Section nine requires employers to provide suitable wash rooms and water-closets, at least one for every twenty-five persons. Those for men shall be separate from those for women, and they shall be suitably separated from the work-rooms, as well as suitably screened and ven-

tilated and kept "clean, sanitary, and free from all obscene writing or marking."

Section 10 requires establishments "where white lead, arsenic or other poisonous substances, or injurious fumes, dust or gases shall be present" to provide a suitable room for female employees free from such substances, and not permit female employees to remain where such substances are during meal periods. Where such substances exist, section 11 requires the use of hoods and pipes connected with exhaust fans, kept constantly running while such substances are being generated.

Section 12 requires employers to furnish clean and pure drinking water, and forbids the collection from female employees of any money for ice for said drinking water.

Section 13 requires the posting in a conspicuous place in the work-room where females are employed of a printed abstract of this act and a schedule of the hours of labor for each employee by name. The printed abstract shall be prepared by the Commissioner of Labor and Industry and printed by the Superintendent of Printing and Binding.

The remainder of the act relates to its enforcement by the Department of Labor and Industry, by visiting, inspection and prosecution. When required, satisfactory evidence of the age of any employee suspected of being under twenty-one shall be furnished within ten days, or the employee discharged. Where a regular employment certificate under the child labor law is furnished, the employer is not liable to prosecution for infringement of the age provisions of this act if that certificate is untrue in fact.

3. GENERAL LABOR REGULATIONS.

The principal statute on the subject of general labor regulations is the Act of May 2, 1905, P. L. 352 (Labor Regulations 15 to 36). The provisions of that statute are herewith given as concisely as possible as follows:

Where there are both male and female employees, suitable and proper wash and dressing rooms and water-closets shall be provided, and those for males shall be separate from those for females, and both shall be screened, ventilated and sanitary.

One hour shall be allowed at noon, but this may be reduced "for good cause" by the factory inspector.

Factory laws shall be posted in every room, and a notice stating "the number of hours per day for each day of the week" required of employees, shall also be posted.

Machinery shall be safe-guarded, and the chief factory inspector may prohibit its use until this is done.

Elevators shall be safe-guarded; this matter is under the additional control of the various cities under the Act of May 28, 1907, P. L. 297 (Elevators 3 to 6).

There shall be at least 250 cubic feet of air-space for each employee; and all work-rooms, halls and stairways shall be kept clean, sanitary and properly lighted.

Manufacturers of wearing apparel, cigars and cigarettes shall not have the work performed in rooms where persons live (sweatshops), except by "resident members of the family," which includes only parents and their children. A certificate from the board of health of the city or town that the house is free from any infectious or contagious disease must be furnished by the family. Such house or workshop shall be inspected by the factory inspector, and if the same is found in a clean, safe and sanitary condition, he shall issue a permit fixing the number of persons who may be there employed, which permit shall be kept posted. Clothing made in unhealthy or unsanitary places, or where there are contagious or infectious diseases, may be condemned and destroyed by the factory inspector.

Bakeries shall be separate from any sleeping-room, water-closet, urinal, defective drain or sewer pipe, and no domestic animal shall be harbored therein. The floors shall be kept clean and tightly joined and free from crevices, and the walls and ceilings shall be painted, kalsomined or whitewashed at least twice a year. When these rules are complied with, a permit shall be issued, and be kept posted; when not complied with, notice shall be given, and the bakery may be closed.

Boilers shall be inspected at east once a year, but this matter is frequently covered by local ordinance, in which case the general act does not apply.

Accidents must be reported to the factory inspector within 24 hours, and the latter may make a thorough and complete investigation of the same.

When the Act of 1905 is violated, the alderman, justice of the peace or committing magistrate shall, if the evidence warrants it, impose a fine of not less than $25 nor more than $500, or an imprisonment of not less than ten days nor more than sixty days for each offence. But the defendant may appeal to the court of quarter sessions by entering bail.

The Act of May 11, 1893, P. L. 41 (Labor Regulations 37, 38), requires the persons constructing a building to cover the joists or girders with boards as the work progresses, to prevent workmen above from falling through and workmen below from being hit by falling objects. Penalty, $100 fine for each floor left uncovered.

By the Act of April 11, 1903, P. L. 166 (Labor Regulations 45, 46), athletic contests or exhibitions are limited to twelve hours a day.

The Act of June 9, 1911, P. L. 746, makes it a misdemeanor for "any officer or employee of any employer of labor" to solicit, demand or receive, directly or indirectly, money or other valuable thing for the purpose of getting another employment with the same employer or continuing him in such employment. Penalty, fine of $50 to $300, and imprisonment for three months to one year, either or both.

The Act of June 7, 1911, P. L. 673, as amended by Act of April 4, 1913, P. L. 42, requires owners of foundries employing more than ten men to maintain a toilet room of suitable size in which employees may change their clothes, the act to be enforced by the factory inspector.

The Act of April 24, 1913, P. L. 114, requires employers to pay wages semi-monthly, or oftener, one payment to be before the 15th of the month, and the other after the 15th. Penalty, $100 fine.

The Act of July 26, 1913, P. L. 1363, is a very elaborate act for the protection of those engaged in the manufacture of white lead, red lead, litharge, sugar of lead, arsenate of lead, lead chromate, lead sulphate, lead nitrate or fluo-silicate. The details of the protective devices and other sanitary and health arrangements required are therein minutely set forth, and the enforcement of the act is placed in the hands of the Department of Labor and Industry.

The Act of June 2, 1913, P. L. 396, establishes a Department of Labor and Industry in the State government. Under this act all state factory and medical inspection is organized under a Bureau of the Department.

There is created under the Department a Bureau of Statistics and Information "to keep in touch with labor in the commonwealth, especially in relation to commercial, industrial, physical, educational, social, moral, and sanitary conditions of wage-earners of the commonwealth, and to the productive industries thereof; also, to collect, assort, publish and systematize the details and general information regarding industrial accidents and occupational diseases, their causes and effects, and the methods of preventing and remedying the same, and of providing compensation therefor; also to make inquiry and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the State, and to gather information with respect to the supply of labor afforded by such aliens, and ascertain the occupations for which such aliens may be best adapted, and to bring about communication between the aliens and the several industries requiring labor; and to collect, assort, and publish statistical details and general information relative thereto."

There is also created in the same Department an "Industrial Board" of five members, consisting of (1) the Commissioner of Labor and Industry, (2) an employer of labor, (3) a wage-earner, (4) a woman, and (5) some other person. "The Industrial Board shall have the power to make investigations concerning, and report upon, all matters touching the enforcement and effect of the provisions of all laws of the commonwealth, the enforcement of which shall now and hereafter be imposed upon the Department of Labor and Industry, and the rules and regulations made by the Industrial Board in connection therewith."

Section 14 of the act is as follows: "All rooms, buildings and places in this commonwealth where labor is employed, or shall hereafter be employed, shall be so constructed, equipped, and arranged, operated and conducted, in all respects, as to provide reasonable and adequate protection for the life, health, safety, and morals of all persons employed therein. For the carrying into effect of this provision, and the provisions of all the laws of this commonwealth, the enforcement of which is now or shall hereafter be entrusted to or imposed upon the Commissioner or Department of Labor and Industry, the Industrial Board shall have power

to make, alter, amend, and repeal general rules and regulations necessary for applying such provisions to specific conditions, and to prescribe means, methods, and practices to carry into effect and enforce such provisions."

It is also provided that hearings on the reasonableness of a rule or regulation may be asked for and held; and violation of the act or of the rules and regulations is made a misdemeanor punishable by fine of $100 or one month's imprisonment, or both.

The act also contains a section creating a Bureau of Mediation and Arbitration, with a chief whose duty it is to proceed to any locality where a difference arises between employers and employees and try to make a settlement amicably. If unsuccessful, a method of arbitration is provided by the act.

4. CONVICT LABOR.

The Act of June 13, 1883, P. L. 112 (Jails and Penitentiaries 117 to 120), did away with "contract labor" in Pennsylvania, and provided that convict labor be employed by the officers in charge "for and in behalf of" the state or the respective counties, as the case may be; and the act further provided that all convicts "shall receive quarterly wages equal to the amount of their earnings, to be fixed from time to time by the authorities of the institution, from which board, lodging and clothing, and the cost of trial shall be deducted, and the balance paid to their families or dependents; in case none such appear, the amount shall be paid to the convict at the expiration of the term of imprisonment."

By the Act of April 28, 1899, P. L. 122 (Jails and Penitentiaries, 121 and 122), only five per cent. of the whole number of convicts in any institution may be employed in the manufacture of brooms and brushes and hollowware twenty per cent. in the manufacture of mats and matting and ten per cent. in the manufacture of any kind of goods which are manufactured elsewhere in the state. The Act of June 18, 1897, P. L. 170 (Jails and Penitentiaries 124 to 126), permits no power machinery to be used, and allows only the use of hand or foot power in the manufacture of goods made elsewhere in the state.

The Act of April 28, 1899, P. L. 89, provides for the use of convict labor in road making, but limits the number so employed to ten per cent. of the total number, unless the managers or officers of the institution authorize the employment of a greater number. As originally passed, this act also regulated labor inside of prisons and provided that all money received for such labor should be credited on the maintenance account; but this act was extensively amended by the Act of May 25, 1907, P. L. 247 (Jails and Penitentiaries 123, 127 to 134), which provided that it should not affect or change the method or manner of employment of prisoners within said prisons, or the control thereof.

It therefore appears that probably the above mentioned Act of 1883 is still the law and the families or dependents of prisoners may receive their wages.

The Act of June 20, 1883, P. L. 125 (Jails and Penitentiaries 135 to 138), requires all convict-made goods to be branded as such, and forbids dealing in the same unless branded.

5. APPRENTICES.

By the Act of March 27, 1713, 1 Sm. L. 81 (Apprentices 1 and 2), minors may be bound out as apprentices at the request of executors, administrators, guardians or tutors, by order of the Orphans' Court, but only to persons of the same religious persuasion, and of good repute, and with the consent of the minor himself, in so far as he has discretion to decide.

By the Act of June 13, 1836, P. L. 539 (Apprentices 3), the overseers of the poor, with the consent of two magistrates, may put out as apprentices all poor children whose parents are dead or are found to be unable to support them.

Whenever the poor authorities could bind out, the Act of May 23, 1887, P. L. 168 (Apprentices 5), gives the same power to bind out to the mother, guardian or next friend of the orphan.

Under the Act of May 25, 1878, P. L. 152 (Apprentices 4), the overseers of the poor may bind out minors in their care to corporations organized for the purpose of providing homes for friendless or destitute persons or children; and such corporations may bind out and provide suitable homes for all children committed to their charge when maintenance is unprovided for by their parents or guardians.

Under the Act of April 13, 1899, P. L. 46 (Juveniles 120 and 121), a charitable institution which has furnished support, in whole or in part, for one year or more, to any minor, may petition the court for an order permitting them to indenture said minor during minority to any suitable person. Upon proper notice such order may be granted. The indenture thus made shall vest in the person to whom it is made the sole and absolute right to the care, control, custody and services of said minor as against the parents, guardian or next friend who was notified of the petition; but the right reserved to the charitable institution in the indenture so made shall not be prejudiced or in any way interfered with.

Under the Act of May 12, 1857, P. L. 454 (Juveniles 107), houses of refuge in Philadelphia and Allegheny Counties may indenture white inmates outside the state, after receiving the consent of such minors.

Under the Act of June 4, 1879, P. L. 84 (Juveniles 108), houses of refuge and reform schools may, after complaint filed in the court of quarter sessions that agreements made by the master have been violated, or that the minor has been neglected or improperly treated, reclaim such wards and apprentices.

CHAPTER X.

MARRIAGE, DIVORCE AND MARRIED WOMEN.

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1. MARRIAGE.

The Act of June 18, 1895, P. L. 202 (Marriage 14), provides that no person shall be "joined in marriage" without a license issued by the Clerk of the Orphans' Court of the county in which one of the parties resides, or where the marriage is performed; but this does not render common law marriages invalid. 12 P. & L. Dig. Dec. 19, 613 & 19, 655 et seq. A common law marriage exists when persons capable of marrying, that is, when no legal impediment, such as a prior existing marriage, exists, actually live together as husband and wife and hold themselves out as such. If, however, a man and woman live together when one or the other is legally incapable it is not a marriage, and the later removal of the impediment does not make the relation legal until a legal ceremony has been performed, or there has been a separation and then a resumption of the relation.

The Act of March 24, 1905, P. L. 58 (Marriage 17), provides that both parties, either separately or together, must apply to the Clerk of the Orphans' Court for a license, and if either is under 21 "the consent of their parents or guardians shall be personally given before such clerk, or certified under the hand of such parent or guardian, attested by two adult witnesses, and the signature of such parent or guardian shall be properly acknowledged before a notary public or other officer competent under the laws to receive acknowledgments." As this law is applied, a mother of a minor cannot give consent in the absence of the father until she has been appointed guardian of the person by the Orphans' Court. Upon application, the court may in its discretion appoint any person as guardian of the person.

The issuance of licenses is regulated by the Act of July 24, 1913, P. L. 1013, which requires that the sworn application contain, in addition to the name, age, residence, etc., of the parties, the statement "that neither of the contracting parties is afflicted with a transmissible disease." It is also provided that no license shall be issued "where either of the contracting parties is an imbecile, epileptic, of unsound mind, or under guardianship as a person of unsound mind; nor to any male person who is or has been, within five years, an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such

condition has been removed, and that such male applicant is physically able to support a family; or if, at the time of making application, either of the contracting parties is under the influence of an intoxicating liquor or narcotic drug."

When the right to a license is not made to appear, it is the duty of the Clerk to refuse it, and to certify the proceeding to the Orphans' Court, where the matter is to be heard and decided "at the earliest practicable time."

The Act of May 8, 1854, P. L. 663 (Marriage 13), makes it a misdemeanor, punishable by a fine of $50 and 60 days' imprisonment for any judge, justice or clergyman to perform a marriage when either party is intoxicated.

By the Act of May 14, 1857, P. L. 507 (Marriage 11), an illegitimate child is legitimated by the lawful marriage and cohabitation of its parents.

2. DEGREES OF CONSANGUINITY.

The Act of March 31, 1860, P. L. 382, sec. 39 (Crimes 191), under a penalty of not more than $500 fine and not more than three years' separate or solitary confinement at labor, forbids the incestuous fornication or adultery or intermarriage of persons within the degrees of consanguinity or affinity, as follows:

A man may not marry his (1) mother, (2) father's sister, (3) mother's sister, (4) sister, (5) daughter, (6) daughter of his son or daughter, (7) father's wife, (8) son's wife, (9) son's daughter, (10) wife's daughter, or (11) the daughter of his wife's son or daughter.

A woman may not marry her (1) father, (2) father's brother, (3) mother's brother, (4) brother, (5) son, (6) son of her son or daughter, (7) mother's husband, (8) daughter's husband, (9) husband's son, or (10) the son of her husband's son or daughter.

Even if marriages within certain of these degrees are valid in other countries, still they will not be recognized when the parties come here. U. S. v. Navigation Co., 10 D. R. 480; U. S. v. Rodgers, 109 Fed. Rep. 886.

Where such marriage takes place, however, and is not dissolved in the lifetime of both parties, it cannot be questioned thereafter. Parker's Appeal, 44 Pa. 310; Walter's Appeal, 70 Pa. 392.

By the Act of June 24, 1901, P. L. 597 (Marriage 8 to 10), the marriage of first cousins is made unlawful and void after January 1, 1902.

3. DIVORCE.

There can be absolute divorce, known as divorce from the bonds of matrimony, for the following causes:

(1) When either party, at the time of the contract, was and still is naturally impotent or incapable of procreation.

(2) When he or she hath knowingly entered into a second marriage in violation of the previous vow he or she made to the former wife or husband, whose marriage is still subsisting.

(3) When either party shall have committed adultery.

(4) Or wilful and malicious desertion and absence from the habitation of the other, without a reasonable cause, for and during the term and space of two years.

(5) When any husband shall have, by cruel and barbarous treatment, endangered his wife's life.

(6) Or offered such indignities to her person as to render her condition intolerable and life burdensome, and thereby force her to withdraw from his house and family.

(7) In the case of marriages within the degree of consanguinity or affinity, according to the table established by law.

(8) When any husband or wife, upon any false rumor, in appearance well founded, of the death of the other (when such other has been absent for the space of two whole years) hath married, or shall marry again, it shall be in the election of the party remaining unmarried, at his or her return, to insist to have his or her former wife or husband restored, or to have his or her own marriage dissolved, and the other party to remain with the second husband or wife.

(9) Where an alleged marriage was procured by fraud, force or coercion, and has not been subsequently confirmed by the acts of the injured party.

(10) Where a wife shall have, by cruel and barbarous treatment, or indignities to his person, rendered the condition of her husband intolerable, or life burdensome.

(11) When either of the parties shall have been, either within or without this state, convicted as principal, or as accessory either before or after the fact, of the crime of arson, burglary, embezzlement, forgery, kidnapping, larceny, murder, either in the first or second degrees, assault with intent to kill, voluntary manslaughter, perjury, rape, robbery, sodomy, buggery, treason, or misprision of treason, and be sentenced by a competent court, having jurisdiction, to imprisonment for any term exceeding two years; Provided, That such application for a divorce be made by the husband or wife of the party so convicted and sentenced.

A legal separation, known as a divorce from bed and board, can be decreed for many of the above causes; but as a divorce from bed and board does not permit the remarriage of either party, it is infrequently resorted to. Its only usefulness is alimony, which does not ordinarily accompany a divorce from the bonds of matrimony (there being two or three unimportant exceptions), but generally forms the only reason for a divorce from bed and board. As support can now be obtained with more certainty in other ways, the action of divorce from bed and board is being used less and less.

In addition to the above, there is a statute (Act of April 18, 1905, P. L. 211) which was possibly intended to make hopeless insanity a ground for divorce. If such was the intention, the act did not clearly so state, and the Superior Court held, in the case of Baughman v. Baughman, 34 Pa. Super. Ct. 271, that while a divorce on other grounds may be obtained by or from a lunatic, still hopeless lunacy is not in itself a ground of divorce.

4. MARRIED WOMEN.

The former legal disabilities of married women have been almost wholly removed in Pennsylvania, so that married women now have practically all the rights of unmarried women under the law, as well as certain additional rights and advantages. Aside from political rights, unmarried women have the same rights as men. Married women therefore seem to be a favored class under the law. Only in real estate law does any of the old disability still persist. When a married woman owns real estate, she cannot transfer it to another person without the joinder of her husband (unless she is a feme sole trader, as explained later). A man can give a valid deed without his wife joining, but as such deed does not bar her dower rights, the difference is more apparent than real. In like manner a married woman cannot mortgage her property without her husband joining, while a man may give a valid mortgage upon his property without his wife joining. This fact is frequently used to cheat wives, but the remedy is not as simple as it may appear, because a judgment note would accomplish the same end, and it would interfere greatly with business transactions if the law required every note given by one spouse to be signed by the other before becoming collectible out of the real estate of the real debtor. Married women can give a note which is valid in the same way as a man's note.

In the matter of dower and curtesy, the woman is also at an apparent disadvantage. Curtesy is a life interest by the husband in all of his deceased wife's real estate. Dower is a life interest by the wife in one-third of her deceased husband's real estate. However, under the Act of May 4, 1855, P. L. 430, § 5 (Married Women 26), a husband who deserts or fails to support his wife for one year or upwards before her death loses all his rights to curtesy or under the intestate laws to any rights in her real or personal estate after her death. There is no law by which the wife loses her dower rights in her husband's property unless he obtains a divorce from her before he dies.

In most of the remaining points of difference in the law between married women and men, the advantage seems to lie with the married women. No claim of completeness is made, but note is here made of some of the main points of difference, as follows:

(1) A married woman has the right under numerous laws (see Desertion) to obtain support from her husband. The husband has no such rights against her, except that under one law the Poor Authorities can compel a wife to use her separate property to prevent her husband becoming a charge upon the district, a law which is seldom evoked.

(2) A married woman who buys "necessaries" for herself and her family can be sued jointly with her husband under the Act of April 11, 1848, P. L. 536, § 8 (Married Women 37), but execution must first issue against the husband's property and can only issue against her property if the sheriff returns that no property belonging to her husband was found.

(3) Under the Act of June 8, 1893, P. L. 344 (Married Women 2), a married woman "may not become accommodation indorser, maker,

guarantor or surety for another." She cannot therefore, sign a bail bond or any other surety bond whatever.

(4) When a man delivers money to his wife, the law presumes it to be a gift unless the fact is shown to be otherwise, and he cannot sue her for it. When a woman delivers money to her husband, the law presumes it to be a loan unless the fact is shown to be otherwise. She may sue him to recover such loan under the Act of June 8, 1893, P. L. 344, as amended by the Act of March 27, 1913, P. L. 14, giving husband and wife the right to sue the other for the purpose of protecting and recovering the separate property of either.

(5) Although a married woman cannot convey her real estate without her husband joining in the deed, still, under the Act of June 3, 1911, P. L. 631, she may convey direct to her husband as if she were unmarried.

(6) A wife deserted by her husband may, under the Act of May 1, 1913, P. L. 146, bring any civil suit whatever against him, in any court having jurisdiction. A husband has no such rights against his wife.

(7) Under the Act of April 3, 1872, P. L. 35 (Married Women 7 and 8), a married woman is entitled to her separate earnings, free of her husband and his creditors; but in order to take advantage of this act she must present her petition to the court of common pleas stating her intention to claim the benefit of the act. This petition is then recorded in the Recorder's Office, and is conclusive evidence of her right to the benefit of the act.

(8) Under the Act of May 4, 1855, P. L. 430 (Married Women 14 and 15), a married woman may be declared by the court to be a feme sole trader whenever her husband, "from drunkenness, profligacy or other cause" shall neglect or refuse to provide for her, or shall desert her. A feme sole trader may mortgage and convey her real estate without her husband's joining, and her husband's rights are entirely barred, he not even having an interest in her property after her death. There is no law giving a husband such rights upon desertion by his wife. His only remedy is divorce.

(9) Under the Act of June 8, 1893, P. L. 344 (Married Women 34), a married woman cannot be arrested or imprisoned for her torts, in a civil action. This privilege is reserved for men and unmarried women.

(10) After the death of her husband, a wife is entitled to $300 exemption out of his estate before debts are payable, under the Act of April 14, 1851, P. L. 612 (Decedents' Estates 225). After the payment of debts, the intestate laws, as amended by the Act of April 1, 1909, P. L. 87, entitle the wife to an additional $5,000 before general distribution is declared. A husband has no such rights in his wife's property.

CHAPTER XI.

DECEDENTS.

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1. WILLS.

Under the Act of April 8, 1833, P. L. 249, as modified by the Act of June 8, 1893, P. L. 343 (Decedents' Estates 31, 32, 34, 35, 36, 37, 39 and 40), every person of sound mind and over twenty-one may dispose of his or her real and personal estate by will in writing, signed by the testator, except nuncupative wills made during decedent's last sickness by word of mouth before at least two persons, and proved by them.

When wills are probated, the testator's signature must be "proved" by two witnesses; but no subscribing or attesting witnesses are required in this state except in the case of gifts to charity, under the Act of April 26, 1855, P. L. 328 (Charities 2), which provides that in order that the gift be valid, the deed or will, "attested by two credible and at the same time disinterested witnesses," be executed at least one calendar month before the death.

Under the Act of 1833 above mentioned, a father may by will appoint a testamentary guardian for his minor, unmarried children.

Under the Act of June 10, 1881, P. L. 96 (Decedents' Estates 184), the mother who leaves an estate to her child may also appoint a testamentary guardian, the father being dead and not having appointed such guardian. Also, where the husband "from drunkenness, profligacy, or other cause, has neglected or refused to provide for his wife and children, or has deserted them," the wife may, under the Act of May 25, 1887, P. L. 264 (Decedents' Estates 186), if she leaves her children an estate, appoint a testamentary guardian.

Wills are valid and of full effect as to all persons except the wife or husband of the testator. When a husband leaves a will, his wife can choose between (1) taking under the will, or (2) taking under the intestate laws. See Intestacy. When a wife leaves a will, her husband can choose between (1) taking under the will, (2) taking "such share and interest in her real and personal estate as she can, when surviving elect to take against his will in his estates" (Act of May 4, 1855, P. L. 430), or (3) taking his estate by the "curtesy." For the various statutes, see the subject "Dower and Curtesy" in Pepper & Lewis's Digest of Laws.

Common law "curtesy" is the estate which a husband has in his deceased wife's real estate, and is simply a life estate in the whole. This may not be barred by will in Pennsylvania; but in cases where real estate

is held in trust for a wife's separate use, no such right exists, and the husband can only take what is willed to him by his wife.

Whether there is a will or not, the widow or minor children, under the Act of April 14, 1851, P. L. 612 (Decedents' Estates 225), are allowed an exemption of $300 out of the husband's or father's estates, to be set aside for them even before the payment of debts.

2. INTESTACY.

In every case where a husband or father dies, his widow or his minor children, under the Act of April 14, 1851, P. L. 612 (Decedents' Estates 225), are entitled to an exemption of $300 out of his estate, to be set aside for them before debts are paid.

After such exemption, if any, is taken out, the debts and legal charges, if any, are to be paid, and the balance of the estate then remaining is to be distributed in accordance with the laws relating to intestacy. These laws are rather numerous and will be found in Pepper and Lewis's Digest of Laws under Intestacy in the title "Decedents' Estates," 232 to 257, to which should be added the Act of April 1, 1909, P. L. 87. These various acts will not be referred to separately, but their provisions will be set forth as concisely as possible.

Where the intestate leaves a widow and issue, the widow takes one-third part of the real estate for life and one-third part of the personal estate absolutely.

Where the intestate leaves a widow, but no issue, the widow is entitled to the real and personal estate absolutely to the amount or value of $5,000; and, as to any remaining, she shall take one-half of the real estate for life and one-half of the personal estate absolutely.

Where the intestate leaves a husband, he takes a life estate in all of the real estate, whether there are children or not; as to the personal estate, he takes it all absolutely where there are no children; but where there are children, the husband and children divide the personal estate between them, share and share alike. In such case, children of deceased children take their parent's share.

Subject to the foregoing rights of the husband or wife, the real and personal estate of an intestate shall be distributed among the intestate's children as follows:

I. If such intestate shall leave children, but no other descendant being the issue of a deceased child, the estate shall descend to and be distributed among such children.

II. If such intestate shall leave grandchildren, but no child or other descendant being the issue of a deceased grandchild, the estate shall descend to and be distributed among such grandchildren.

III. If such intestate shall leave descendants in any other degree of consanguinity, however remote from him, and all in the same degree of consanguinity to him, the estate shall descend to and be distributed among such descendants.

IV. If such intestate shall leave descendants in different degrees of consanguinity to him, the more remote of them being the issue of a

deceased child, grandchild or other descendant, the estate shall descend to and be distributed among them as follows, viz.:

(a) Each *child* shall take such share as he would have taken if the children who had died, leaving issue, had been living at the death of intestate.

(b) Each *grandchild,* if there are no children, in like manner shall take such share as he or she would have received if all the other grandchildren who had died, leaving issue, had been living at the death of the intestate, and so in like manner to the remotest degree.

(c) In every such case, the issue of such deceased child, grandchild or other descendant, shall take, by representation of their parents respectively, such share as their parent would have taken, if they had been living at the death of the intestate.

Stated shortly, these rules mean that when all the descendants are of the same degree of relationship, they take *per capita,* but when they are of different degrees of relationship, those in the degree nearest the intestate take *per capita* and the more remote take *by representation* of the deceased members of the nearest degree. Clement's Estate, 160 Pa. 391.

Where there are no issue or other direct descendants, the real estate goes to the parents and the survivor of the latter for life, and the personal estate goes to them absolutely.

In default of direct descendants, and subject to the foregoing, the real and personal estate of an intestate passes to collateral heirs as follows:

I. If such intestate shall leave brothers and sisters, or either, of the whole blood, and no nephew or niece being the issue of a deceased brother or sister of the whole blood, the real estate shall descend to and vest in such brothers and sisters.

II. If such intestate shall leave neither brother nor sister of the whole blood, but nephews and nieces being the children of such deceased brother or sister, the real estate shall descend to and vest in such nephews and nieces.

III. If such intestate leaves both brothers and sisters and children of a deceased brother or sister, all of the whole blood, then the brothers and sisters take the same share as if their brother or sister had not died, and the nephews and nieces take by representation of their parent.

IV. In the absence of brothers and sisters of the whole blood, and of children of such deceased brothers and sisters, the real estate of such intestate shall descend to and vest in the next of kin of such intestate, being the descendants of his brothers and sisters of the whole blood.

V. The personal estate of such intestate shall be distributed in the same way as the real estate, but without any distinction of blood.

Where there are no direct or collateral descendants of the whole blood, the real estate goes to the parents of the intestate, or to the survivor of them.

Where the parents also are dead, brothers and sisters of the half blood, and their issue, inherit real estate under the same rules that are provided for collateral heirs of the whole blood.

In the absence of all of the foregoing, the real and personal estate goes to the "next of kin" of the intestate, real estate to go to the nearest

heir of the blood of the purchaser thereof, from whom it descended to the intestate.

Whenever the next of kin is a grandparent, and a grandparent on the other side had died leaving descendants, such descendants take by representation of the deceased grandparent under rules set forth at length in the statutes.

Where there are no known heirs or next of kin, but a husband or wife, then such husband or wife shall take the real and personal property absolutely.

Where there is no husband or wife, or other known heir or next of kin, all property shall escheat to the commonwealth.

All the foregoing rules apply only to legitimate persons. As to illegitimate children, they take the name of their mother, and the same rules of inheritance relate to them as to legitimate persons in so far as their mother, grandmother, brothers and sisters, whether legitimate or illegitimate, are concerned, they being considered only of the half blood in respect to their legitimate brothers and sisters.

3. EXECUTORS AND ADMINISTRATORS.

Letters testamentary and letters of administration are granted by the Register of Wills of the county in which the decedent resided (Decedents' Estates 69 et seq.). Where there is a will, it is admitted to probate by the same officers, and to the person named in it as executor is granted letters testamentary. Where there is no will, letters of administration are grantable first to the husband or wife of decedent, or, if none, to the next of kin in the order of their right of inheritance. Any person having a right to administer may renounce that right in favor of another, and the Register must appoint that person unless he is personally unfit or legally incompetent. It is very common for relatives to renounce in favor of a trust company, as administration by them is generally more satisfactory than by a relative.

In general, executors and administrators have to do only with personal property, the real estate of decedent passing direct to the heir and vesting in him at once upon the ancestor's death. However, the will can give the executor rights over real estate; and where there is not enough personal property to pay debts the executor or the administrator may seize and sell sufficient real estate for that purpose. This is under the Orphans' Court Act of March 29, 1832, P. L. 190 (See Orphans' Court 98).

After appointment, it is the duty of an administrator or an executor to take possession of the personal estate of decedent, file an inventory thereof and convert the same into cash at as early a day as convenient. It is then his duty to pay the debts of decedent, which, under the Act of Feb. 24, 1834, P. L. 70 (Decedents' Estates 20 and 21) are payable in the following order, as to preference:

1. Funeral expenses, medicine furnished and medical attendance given during the last illness of the decedent, and servants' wages not exceeding one year.

2. Rents, not exceeding one year.

3. All other debts, without regard to the quality of the same, except debts due to the commonwealth, which shall be last paid.

With the exception of the items under the first preference, no executor or administrator can be compelled to pay debts "until one year be fully elapsed from the granting of the administration of the estate."

Under the Act of June 14, 1901, P. L. 562 (Decedents' Estates 23), debts not of record, that is, secured by mortgage or reduced to judgment, become a lien upon real estate when death occurs and so remain for two years, during which time, if it is desired that the lien be retained, it is necessary that suit be brought and indexed as a judgment in the Prothonotary's Office of the county where the real estate is situated. On account of this law, it is ordinarily impossible to sell the real estate of a decedent within two years of the death, unless by judicial sale of some kind, as, for instance, by an administrator for the purpose of paying debts, or by a mortgagee upon his mortgage.

After one year, the executor or administrator must file his account, and submit to an audit thereof. Any unpaid creditors can then prove their accounts before the Orphans' Court or an auditor appointed by it. After hearing the evidence, the court will make an order of distribution. After accounting fully for all assets which came in his hands, and paying out the same in accordance with the court's order, the executor or administrator is deemed discharged of his trust.

CHAPTER XII.

MISCELLANEOUS.

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1. IMMIGRATION.

The statutes and rules relating to immigration may be secured in pamphlet form from the Bureau of Immigration of the United States, Department of Labor, at Washington, D. C., or, in Pennsylvania, from the offices of the immigration officials in Philadelphia and Pittsburgh.

Matters relating to immigration are governed by the Act of Congress of February 20, 1907, as amended by the Acts of March 26, 1910, and March 4, 1913.

The classes of aliens excluded by the act from admission into the United States are as follows:

(1) Idiots, imbeciles, feeble-minded persons, epileptics, insane persons, persons who have been insane within five years, or who have previously had two attacks of insanity.

(2) Paupers, unless a bond is given that they will not become a public charge.

(3) Persons likely to become a public charge, unless a bond is given that this will not happen.

(4) Professional beggars.

(5) Persons having tuberculosis or a loathsome or dangerous contagious disease.

(6) Persons certified by the examining physician as mentally or physically defective, so that their ability to earn a living is affected, except in the case of physically defective a bond may be given that they will not become a public charge.

(7) Persons who have been convicted of or admit having committed a crime "involving moral turpitude," but this does not apply to offences "purely political."

(8) Polygamists.

(9) Anarchists.

(10) Prostitutes, or persons coming for that business, and procurers.

(11) Contract laborers, or persons induced to come by the promise of employment; but this does not apply to actors, artists, lecturers, singers, ministers, professors, members of recognized learned professions and personal servants.

(12) Persons deported within one year for being contract laborers.

(13) Persons whose passage money was provided by others, unless it is affirmatively shown that it was not provided by any corporation, association, society, municipality or foreign government, either directly or indirectly.

(14) Children under sixteen unaccompanied by parents, except in accordance with rules prescribed by the Secretary of Labor, which rules allow the admission of strong, healthy children who are going to relatives who are able and willing to support them and send them to school until they are sixteen, the bureau having the right to require a bond.

If any aliens pass the inspectors who should have been excluded under the above, or if any aliens engage in any way in the business of prostitution, or become public charges from causes existing prior to landing, they shall be taken into custody and deported to the country from which they came at any time within three years after the date of entry.

Any cases in which deportation under the law appears proper should be reported to the immigration officer stationed nearest where the alien is found to be. In Pennsylvania, this is either Philadelphia or Pittsburgh, the only two immigration offices in the State. It thereupon becomes the duty of the officer in charge to prepare an application for a warrant of arrest to be forwarded to the Commissioner of Immigration at Washington. This application must state facts bringing the alien within one or more of the classes subject to deportation, together with affidavits, doctors' certificates, etc., as proof of such facts. Upon the issue of the warrant of arrest, the alien is taken into custody and given a hearing before the officer named in the warrant of arrest. He may there be represented by an attorney and pending the decision of the case may be allowed to remain in some institution or place deemed secure and proper by the officer, or released under $500 bail unless different instructions are given by the Department. If no bond is given, the alien is to be held in jail only in case no other secure place of detention can be found. The full record of the case, together with the officer's recommendation and a brief by the attorney is sent to the Bureau at Washington, where a warrant of deportation is issued if the facts warrant it, by the Secretary of Labor. The peculiarity of this proceeding is that there is no appeal to court at any stage of it, the decision of the officials being final. The technical rules of evidence do not apply, and the proceeding is more of an inquiry than a trial.

After the warrant of deportation is issued, the alien is removed to the port of deportation at the expense of the United States, except that one-half of such expense shall be paid by he contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, if there be such person. From the port of deportation the

expense must be paid by the owner or owners of such vessel or transportation line by which such alien came. This includes the total cost to the alien's final destination. Where an alien requires special care and attention, an attendant may be sent along, the expense thereof to be paid in the same manner.

In a case where an alien has been admitted and has become a public charge from physical disability arising after landing, he may be deported with his consent within one year from the date of landing, providing he is delivered free of charge to the Government at some designated port. The cost of transportation is then payable by the United States from such port to the alien's final destination abroad.

Some of the penalties provided for violations of the act are as follows:

(1) For importing any alien for purposes of prostitution or other immoral purpose, fine of $5,000 and ten years' imprisonment.

(2) For attempting to return after deportation on the ground of prostitution, two years' imprisonment, and subsequent deportation.

(3) For prepaying transportation or bringing contract laborers or illegally inducing an alien to come, a fine is fixed at $1,000 for every such offence, "which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid," to be sued for in the Federal courts.

(4) For any person, including the owners of vessels, to bring into the United States any alien not duly admitted by the immigrant inspectors, is a misdemeanor, punishable by fine of $1,000 and two years' imprisonment.

(5) For bringing insane or diseased aliens into the United States when such condition might have been detected by a competent medical examination, the person or owner of the vessel shall pay the collector of customs $100 for every person so brought.

(6) For conspiring to allow, procure or permit, or for aiding or assisting any person to enter the United States except pursuant to law, a fine of $5,000 and five years' imprisonment.

2. NATURALIZATION.

Under the Naturalization Law of June 29, 1906, only aliens who are free white persons or who are of African nativity or descent can be naturalized. This excludes Chinese, Japanese, Indians, Malays, Hindus, and any other colored peoples.

Any such alien over eighteen years of age who is residing in this country may declare his intention of becoming a citizen of the United States and renounce forever his foreign allegiance by taking an oath to this effect before the clerk of the proper court (the United States District Court of the District or the Court of Common Pleas of the proper county). The clerk will then issue the First Paper to the applicant. Aliens twenty-one years old and upwards who have served in the United States army and have been honorably discharged, or who have served five years continuously in the United States navy or one enlistment in

the United States Marine Corps, may be naturalized without first declaring intention.

Not less than two nor more than seven years after taking out the First Paper, and after the applicant has resided in the United States at least five years, he may petition the court at the place he is then residing (having been at least one year in the state) for naturalization, or Second Paper, as it is called. He must be able to write his name to the petition and to speak English. To witnesses must be present when the application is filed. These witnesses must be citizens who know the applicant and that he is of good moral character and in every way qualified to become a citizen. The petition must set forth the facts as to his former allegiance, how, when and where he came to this country, his name, the date and place of birth, and the names and residence of his wife and children.

Notice of the petition is posted, and may be opposed by any person for cause. The final hearing is not less than ninety days after the application, and is held in open court, two witnesses being present with each applicant. Any alien, in applying for Second Paper, may change his name if he notifies the clerk and can give good reason therefor to the court. If all the conditions are properly fulfilled, the court thereupon orders the Second Paper to issue.

A woman may be naturalized, and a wife and minor children can use the First Paper of the husband and father to complete their naturalization if he has died before getting his Second Paper. The naturalization of a man carries with it the naturalization of his wife and minor children. Children born in the United States while their parents are residing here are citizens although their parents may at that time be aliens.

3. LIQUORS.

Under the retail liquor license law of May 13, 1887, P. L. 108 (Liquors 1 et seq.), it is unlawful for any person to sell liquors without a license, except druggists, upon the written prescription of a regularly registered physician. Regularly organized and bona fide clubs may "distribute" liquor among their members at cost, but this is not a "sale," so is not forbidden by the Act of 1887.

Under Section 14 of the Act of 1887 (Liquors 32), no licensee shall trust or give credit for liquor, under penalty of losing and forfeiting such debt; and no action may be maintained in court for such a debt.

Under section 17 (Liquors 33) it is unlawful for any person, with or without a license, to furnish by sale, gift or otherwise, any liquors,

(1) On election day.

(2) On Sunday.

(3) At any time to a minor.

(4) To "a person of known intemperate habits," which means "known" generally, whether known to the saloon-keeper or not.

(5) To a person "visibly affected by intoxicating drink, either for his or her use, or for the use of any other person."

(6) To any person on a pass-book or order on a store.

(7) To any person in exchange for goods, wares, merchandise, or provisions.

Upon conviction, the offender shall be fined not less than $50 nor more than $500, and undergo an imprisonment of not less than twenty nor more than ninety days.

The penalty for selling without a license is a fine of not less than $500 nor more than $5,000, and imprisonment in jail for not less than three months nor more than twelve months. A licensee who breaks provisions of the liquor laws is subject to fine for the first two offences, but for the third offence is subject to the same severe penalty above mentioned. Licenses may be revoked after conviction of more than one offence, and shall not thereafter be granted to the person so convicted. They may also be revoked without conviction upon proof furnished to the court that the licensee permitted "the customary visitation of disreputable persons," or kept "a disorderly place."

Under the Act of May 11, 1901, P. L. 162 (Liquors 41 to 43), any person selling without a license, in addition to the above penalties, "shall also, for every such offence forfeit and pay the sum of $100, which shall be recoverable, with the costs, by any person suing in the name of the commonwealth before any justice of the peace or alderman. And in case the judgment shall not be forthwith paid, the defendant may be committed to the county jail or workhouse, there to remain until the judgment be paid or he be otherwise discharged by law." All such fines are payable to the city, borough or township where the offence was committed.

Under the Act of May 25, 1897, P. L. 93 (Liquors 46), any liquor dealer who is prosecuted for selling to minors may give in defence the circumstances under which the sale was made, and if it appears it was made knowingly or negligently he shall be guilty of a misdemeanor, and the burden of proving that it was not made knowingly or negligently is placed upon the defendant.

Under the Act of June 13, 1836, P. L. 589, § 66 (Liquors 47), the committee of any habitual drunkard may give notice to any dealer not to sell to such habitual drunkard, and if sales are then made the dealer shall forfeit $10 for each sale, to be recovered by civil action and divided equally between the county and the person suing.

Under the Act of April 22, 1903, P. L. 257 (Liquors 49), notice may be given to any dealer forbidding him to sell to any intemperate person or habitual drunkard. Such notice may be either written or verbal and may be given by any member of the family or blood relations of the intemperate person, by an overseer of the poor or a magistrate of the district of legal settlement or by the committee of a habitual drunkard. If the person receiving such notice furnishes such person liquors within three months, he is guilty of a misdemeanor and is subject to a fine of $10 to $50 and an imprisonment of ten to sixty days.

CIVIL ACTIONS FOR DAMAGES.

Section 3 of the Act of May 8, 1854, P. L. 663 (Liquors 61), makes any person who furnishes liquor to another in violation of any existing

law liable in damages by action in trespass to "any one aggrieved." As the first section of the same act (Liquors 45) makes it illegal to sell "to any person of known intemperate habits, to a minor, or to an insane person," civil damages may often be recovered where some injury happens as a consequence of the drink furnished. Under this law the courts have held that the intemperate man himself is a person aggrieved, and he may himself sue; also the widow and minor children may sue when the husband is killed in the accident following the illegal furnishing of liquor. Nor is it any defence that the seller had no actual notice that the buyer of the liquor was a person of intemperate habits, or that he was not visibly intoxicated at the time of the sale. It is likewise no defence that other persons also furnished liquor to such person—they are all equally liable.

Under the Act of March 31, 1856, P. L. 200 (Liquors 60), any person who sells another liquor to be drunk on the premises, and such other person becomes intoxicated thereby, the seller is liable to a fine of $5 in an action to be instituted within twenty days before any justice of the peace or alderman by the wife, husband, parent, child, relative or guardian of the person so injured. Such fines go to the person instituting the suit, and are collected out of the goods and chattels of the seller, the exemption laws not applying.

Under the Act of April 12, 1875, P. L. 40 (Liquors 59), the husband, wife, parent, child or guardian of any person who drinks to excess may notify in writing any liquor dealer not to furnish liquor to such person; and if the dealer does furnish it within twelve months, the person giving the notice may bring an action of tort for damages and recover not less than $50 nor more than $500, to be fixed by the court or judge as damages. A married woman may bring this action in her own name, and the damages recovered go to her separate use.

Any person prosecuting another for a violation of the provisions of the Act of 1854, above mentioned, is entitled under section 6 (Liquors 75) to receive compensation, to be fixed by the court, not exceeding $20, to be taxed as costs, and to be in addition to regular witness fees.

Under the Act of May 13, 1887, P. L. 108, § 18 (Liquors 80), any place where liquors are sold in violation of law is declared to be a nuisance, to be abated by proceedings at law or equity. All expenses connected with such proceedings, including a counsel fee of $20 for complainant's counsel, shall be paid by the defendants.

4. LOAN COMPANIES.

Under the law as it existed prior to 1913 lenders of money could not legally collect more than 6% interest per annum, which, by the Act of May 28, 1858, P. L. 622 (Interest 1), is made the lawful rate of interest "where no express contract shall have been made for a less rate." The second section of that Act provided that where any greater rate shall be charged, the borrower need not pay the excess; and where the excess has been voluntarily paid, the borrower may begin suit to recover such excess within six months after the time of payment.

Under the Act of June 5, 1913, P. L. 429, loan companies may be granted a license by the Quarter Sessions Court in each county to loan money and charge therefor certain fees in addition to interest at the rate of 6% per annum. Such fees are:

(1) Examination fee of not more than $1.00 on loans of not over $50.00.

(2) A brokerage fee of 10% of the amount actually loaned.

The examination fee may be demanded in advance, but no such fee can be collected unless a loan is actually made. Neither the brokerage fee of 10% nor the interest may be collected in advance, so the borrower is entitled to receive in cash the full amount of the loan less $1.00. Loans may not be renewed so as to charge a new set of fees oftener than every four months.

When the loan is made the borrower must be given a card showing the date and amount actually loaned, the amount of fees charged, the amount and date of each payment and the rate of interest charged. When payments are made, a receipt must be given showing the amount then paid, the total amount previously paid and the amount remaining due, setting forth the interest separately.

When assignments of wages or other money are given as security, notice must be given the employer or other debtor within three days after the loan is made.

If any licensed company charges more than the law allows, it may be recovered by suit begun within two years. Any officer, member or agent of a company violating the law, or charging more than the law allows, may be convicted of a misdemeanor and fined $500; and for subsequent violation he may also be imprisoned six months and have his license forthwith revoked.

A slight calculation will show that loan companies may easily, under this act, make more than 40% a year on their money. It is believed that very few loan companies will attempt to operate without taking out a license. Persons interested in the matter should then see to it that the licensed companies do not, by some subterfuge or illegal practice, make greater charges than the law allows them to make.

This so-called "Loan Shark Bill" was held to be constitutional by the Superior Court in July, 1914.

5. SPECIAL POLICE FOR CHARITABLE ASSOCIATIONS.

Any incorporated or unincorporated association organized for any charitable purpose may, under the Act of June 25, 1885, P. L. 167 (Charities 34 to 39), apply to the Governor for the appointment of any special officer or policeman for such association, and the Governor may, in his discretion, issue a commission to such person to act as such special officer or policeman. The officer so appointed shall be paid by the association as may be agreed between them and shall wear a metallic shield with the words "special officer" and the name of the association upon them.

Such special officers, under the wording of the amendment to the above act of July 22, 1913, P. L. 901, "shall possess and have the right to exercise full power to arrest, upon view, any person for the commission of any offence against the laws of this commonwealth, when such arrest is made in the interest of the association for which such special officer, or policeman, is appointed; or, upon warrant drawn by the proper officer, in any county in this commonwealth; and keepers of jails or lockups or station-houses of detention, in any county in this commonwealth, are required to receive all persons so arrested by any such special officer or policeman, to be dealt with according to law."

Under the Act of May 25, 1887, P. L. 265 (Associations for Prevention of Cruelty to Children 1 to 7), the courts may charter as corporations of the first class (not for profit) associations for the prevention of cruelty to children and aged persons, such corporations being permitted to hold real estate amounting to not more than $20,000 a year. Upon application to the Governor persons may be commissioned as policemen to "possess and exercise all the powers of a policeman, in any county in which they may be directed by said corporation to act, and the keepers of jails, lock-ups, station-houses, in any of said counties, are required to receive all persons arrested by such policemen for the commission of any offense for the cruelty of children and aged persons, and to be dealt with according to law." Such policemen may be removed by the corporation at any time by filing notice to that effect.

6. PEDDLERS.

a. IN CITIES OF THE FIRST CLASS.

The Act of April 15, 1891, P. L. 17 (Peddlers 19 to 23), empowers cities of the first class to impose a license charge for hawking, peddling or vending upon the public streets any fish, fruit or vegetables. A license can be granted only to citizens of the United States, and does not apply to citizens of Pennsylvania who are selling the products of their own farm or garden. This last clause was held unconstitutional in the case of Com. v. Simons, 15 Pa. C. C. 550 (1894), but the City of Philadelphia has continued to act under the statute.

Under this Act, the City of Philadelphia passed the Ordinance of April 11, 1893, No. 216, fixing the charge at $15 for a license for a two-horse vehicle, $10 for a license for a one-horse vehicle and $5 for a license for each barrow or hand-cart. The ordinance applies to peddlers of "vegetables, fruits, berries, fish, oysters, general produce, wood, coal, or any wares or merchandise of any description whatsoever," and in this particular exceeds the authority given the city by the above statute. Honorably discharged soldiers, sailors, marines and widows are exempted from obtaining a license, but it is usual to grant such persons a license free of charge. Licenses are granted by the Commissioner of Markets and City Property, who is authorized to give a license to farmers free of charge.

The penalty for disregarding the provisions of either the statute or the ordinance is five days' imprisonment or fine of $100, or both.

Under the general Act of 1840, hereafter referred to, cripples may be licensed as street vendors by the Court of Quarter Sessions upon the certificate of two physicians.

b. IN CITIES OF THE SECOND AND THIRD CLASSES.

The Act of June 10, 1881, P. L. 109 (Peddlers 24 to 26), provides that no person shall peddle produce or merchandise, except the producer, within the limits of any city of the second or third class without first taking out a license. The penalty for so doing is fixed at $50, to be recovered before the mayor of the city. The Act must be accepted by the city before going into effect in such city.

The City of Pittsburgh, by ordinance of July 1, 1885, O. B. 4, page 593, accepted the Act of 1881, and by Ordinance of December 4, 1886, O. B. 6, page 47, provided that licenses to vendors be issued by the City Treasurer on payment as follows:

For each first class license, foot peddler, $10 a year.

For each second class license, one-horse vehicle, $35 a year.

For each third class license, two-horse vehicle, $50 a year.

Upon such payment, the Treasurer shall furnish a metal plate marked "Licensed Vendor," to be placed on the vehicle.

By the Ordinance of November 18, 1887, O. B. 6, page 200, which was enacted into a statute applying to the whole State by the Act of June 9, 1891, P. L. 250 (Peddlers 7 and 8), licenses are issued without cost to honorably discharged soldiers, sailors and marines, resident in Pennsylvania, who are unable to procure a livelihood by manual labor. Such right is to be proved by presenting a certificate of pension, or, if no pensioner, by a certificate from an examining surgeon of the United States and a certificate from the Prothonotary that he has filed an affidavit that he owns the goods he intends to sell and he will not sell the goods of any other person.

The Charter Act of March 7, 1901, P. L. 20, Art. XIX, § 3, Cl. XXII (Cities 477), gives cities of the second class the right to regulate and license all peddlers and street vendors. Under this power the City of Pittsburgh has forbidden "barking" on the streets, or soliciting trade on the streets, under the summary penalty of not less than $5 fine nor more than $100, or in default of payment imprisonment in jail for thirty days.

The general statutes of 1830 and 1840, hereafter referred to, are in force in cities of the second and third classes.

c. IN BOROUGHS AND TOWNSHIPS.

Peddling in boroughs and townships is licensed under the general statutes, hereafter referred to, and under the Act of June 14, 1901, P. L. 563 (Peddlers 11 to 15). The latter act authorizes the county treasurer to issue a license to any person to hawk, peddle or sell clothing, dry goods, notions, crockery and tinware, other than their own product, for the sale of which no license is required. The charge is $10 where the peddling is done on foot, without a conveyance, and $40 where a con-

veyance is used. This act does not apply to disabled soldiers or to cripples, and does not change or repeal other statutes. Violation of the act is a misdemeanor punishable by fine of not less than $100 nor more than $500, or imprisonment in jail for not less than three months nor more than one year, or both. This is a penal statute, requiring indictment in the usual method.

Under the Borough Act of April 3, 1851, P. L. 320 (Peddlers 17), hawking and peddling can be regulated by boroughs, and boroughs may forbid peddling without a license.

d. GENERAL STATUTES.

Under the General Acts of April 2, 1830, P. L. 147; April 16, 1840, P. L. 433; May 5, 1841, P. L. 342; March 28, 1799, 3 Sm. L. 359; May 9, 1889, P. L. 150, and June 9, 1891, P. L. 250 (Peddlers 1 to 8, 16 and 18), the court of Quarter Sessions, on application and on furnishing bond for $300, if satisfied that the applicant has resided one year in the county, that he is a man of honesty and good moral character and that "from loss of limb or other bodily infirmity," he is disabled from procuring a livelihood by labor, which disability is proved by two physicians, or that he is an honorably discharged soldier, sailor or marine of the United States, may issue to such applicant a license to peddle within the county. In the case of wholesale peddlers, the license is good all over the state, but they must pay $40 for a one-horse vehicle and $50 for a two-horse. Soldiers, sailors and marines are exempted from payment, but other licensees pay, for a license to travel on foot, $8; with one horse, $16; with two horses, $25. Lending the license or peddling without a license subjects the offender to the summary penalty of $50, to be recovered by any person who shall sue for the same.

Under the Act of February 6, 1830, P. L. 39 (Peddlers 9 and 10), licenses to peddle any kind of tin or japanned ware or clocks may be obtained by any person of good moral character, on payment of $30, from the clerks of the courts of Quarter Sessions of the respective counties. The penalty for peddling without a license under this Act is $50, to be recovered by summary process, one-half of the penalty to go to the informer and the other half to the county.

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